

West's Colorado Revised Statutes Annotated
Title 43. Transportation
Financing
Article 4. Financing
Part 6. Regional Transportation Authority Law (Refs & Annos)

C.R.S.A. § 43-4-605

§ 43-4-605. Powers of the authority--inclusion or exclusion of property--
determination of regional transportation system alignment--fund created--repeal

Effective: June 17, 2021

Currentness

(1) In addition to any other powers granted to an authority pursuant to this part 6, an authority has the following powers:

(a) To have perpetual existence, except as otherwise provided in the contract;

(b) To sue and be sued;

(c) To enter into contracts and agreements affecting the affairs of the authority;

(d) To establish, collect, and, from time to time, increase or decrease fees, tolls, rates, and charges for the privilege of traveling on or using any property included in any regional transportation system financed, constructed, operated, or maintained by the authority, without the fees, tolls, rates, and charges being subject to any supervision or regulation by any board, agency, bureau, commission, or official; except that any fees, tolls, rates, and charges imposed for the use of any regional transportation system shall be fixed and adjusted so that the fees, tolls, rates, and charges collected, along with other revenues, if any, are at least sufficient to pay for any bonds issued pursuant to this part 6 and interest thereon;

(e) To pledge all or any portion of the revenues to the payment of bonds of the authority;

(f) To finance, construct, operate, or maintain regional transportation systems within or without the boundaries of the authority; except that the authority shall not construct regional transportation systems in any territory located outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of the municipality; outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries of the county exist on the date the authority is created without the consent of the governing body of the county; or inside or outside the boundaries of the authority if the regional transportation systems would alter the state highway system, as defined in [section 43-2-101\(1\)](#), or the interstate system, as defined in [section 43-2-101\(2\)](#), except as authorized by an intergovernmental agreement entered into by the members of the combination that created the authority or the transportation planning organization exercising the powers of an authority and the department of transportation as required by [section 43-4-603\(1.5\)](#);

(g) To purchase, trade, exchange, acquire, buy, sell, lease, lease with an option to purchase, dispose of, and encumber real or personal property and any interest therein, including easements and rights-of-way;

(h) To accept real or personal property for the use of the authority and to accept gifts and conveyances upon the terms and conditions as the board may approve;

(i) To impose an annual motor vehicle registration fee of not more than ten dollars for each motor vehicle registered with the authorized agent, as defined in section 42-1-102, of the county by persons residing in all or any designated portion of the members of the combination or of the members of the transportation planning organization exercising the powers of an authority as authorized by [section 43-4-622](#); except that the authority shall not impose a motor registration fee with respect to motor vehicles registered to persons residing outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created or the resolution authorizing the transportation planning organization to exercise the powers of an authority is adopted without the consent of the governing body of the municipality or outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries of the county exist on the date the authority is created without the consent of the governing body of the county. The registration fee is in addition to any fee or tax imposed by the state or any other governmental unit. If a motor vehicle is registered in a county that is a member of more than one authority, the total of all fees imposed pursuant to this subsection (1)(i) for the motor vehicle shall not exceed ten dollars. The authorized agent of the county in which the registration fee is imposed shall collect the fee and remit the fee to the authority. The authority shall apply the registration fees solely to the financing, construction, operation, or maintenance of regional transportation systems that are consistent with the expenditures specified in [section 18 of article X of the state constitution](#).

(i.5)(I) Subject to the provisions of [section 43-4-612](#), to impose, in all or any designated portion of the members of the combination or of the members of the transportation planning organization exercising the powers of an authority as authorized by [section 43-4-622](#), a visitor benefit tax on persons who purchase overnight rooms or accommodations in any amount that would not cause the aggregate amount of the visitor benefit tax and any lodging tax imposed on such overnight rooms or accommodations to exceed two percent of the price of such overnight rooms or accommodations; except that the authority shall not impose a visitor benefit tax on overnight rooms or accommodations that are in any territory:

(A) Outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of such municipality; or

(B) Outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries of the county exist on the date the authority is created without the consent of the governing body of such county.

(II) The visitor benefit tax is in addition to any fee or tax imposed by the state or any other governmental unit and a minimum of seventy-five percent of the net revenue derived from the tax shall be used by the authority solely to finance, construct, operate, and maintain regional transportation systems and provide incentives to overnight visitors to use public transportation.

(III) Notwithstanding the provisions of subparagraph (I) of this paragraph (i.5), an authority may derive no more than one third of its total revenues from the visitor benefit tax.

(IV) Any authority that imposes a visitor benefit tax shall give due consideration to the transportation needs of persons who pay the visitor benefit tax on the purchase of overnight rooms or accommodations when constructing, operating, and maintaining regional transportation systems and shall ensure that such visitors have easy access to the regional transportation systems.

(V) Upon the request of the authority, the executive director of the department of revenue shall administer and collect the visitor benefit tax authorized by subparagraph (I) of this paragraph (i.5). If the authority requests that the executive director administer and collect the tax, the executive director shall make monthly distributions of the tax collections to the authority. The department of revenue shall retain an amount not to exceed the cost of the collection, administration, and enforcement and shall transmit the amount to the state treasurer who shall credit the same to the regional transportation authority visitor benefit tax fund, which fund is hereby created. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of the provisions of this part 6. Any moneys remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such moneys, any moneys appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(j)(I) Subject to the provisions of [section 43-4-612](#), to levy, in all or any designated portion of the members of the combination or of the members of the transportation planning organization exercising the powers of an authority as authorized by [section 43-4-622](#), a sales or use tax, or both, at a rate not to exceed one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state; except that, if the authority includes territory that is within the regional transportation district created and existing pursuant to article 9 of title 32, a designated portion of the members of the combination or of the members of the transportation planning organization in which a new tax is levied must be composed of entire territories of members of the combination or of the members of the transportation planning organization so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination or of the members of the transportation planning organization is uniform and except that the authority shall not levy a sales or use tax on any transaction or other incident occurring in any territory located outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of the municipality or outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries exist on the date the authority is created without the consent of the governing body of the county. Subject to the provisions of [section 43-4-612](#), the authority may elect to levy any such sales or use tax at different rates in different designated portions of the members of the combination or of the members of the transportation planning organization; except that, if the authority includes territory that is within the regional transportation district, a designated portion of the members of the combination or of the members of the transportation planning organization in which a new tax is levied must be composed of entire territories of members of the combination or of the members of the transportation planning organization so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination or of the transportation planning organization is uniform. If the authority so elects, it shall submit a single ballot question that lists all of the different rates to the registered electors of all designated portions of the members of the combination or of the transportation planning organization in which the proposed sales or use tax is to be levied. The tax imposed pursuant to this subsection (1) (j) is in addition to any other sales or use tax imposed pursuant to law. If a member of the combination or of the transportation planning organization is located within more than one authority, the sales or use tax, or both, authorized by this subsection (1) (j) shall not exceed one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in [section 29-2-106](#). The director shall make monthly distributions of the tax collections to the authority, which shall apply the proceeds solely to the financing, construction, operation, or maintenance of regional transportation systems. The department shall retain an amount not to exceed the total cost of the collection, administration, and enforcement and shall transmit the amount to the state treasurer, who shall credit the same to the regional transportation authority sales tax fund, which fund is hereby created. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of this part 6. Any

money remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such money, any money appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(II) A sales or use tax, or both, levied pursuant to subparagraph (I) of this paragraph (j) shall not be levied on the sale of tangible personal property:

(A) Delivered by a retailer or a retailer's agent or to a common carrier for delivery to a destination outside the authority;

(B) Upon which specific ownership tax has been paid or is payable if the purchaser resides outside the boundaries of the authority or the purchaser's principal place of business is outside the boundaries of the authority and if the personal property is registered or required to be registered outside the boundaries of the authority; or

(C) Where such tangible personal property is a cigarette.

(j.5)(I) Subject to the provisions of [section 43-4-612](#), to impose a uniform mill levy of up to five mills on all taxable property within the territory of the authority. This subsection (1)(j.5) does not limit or affect the power of an authority to establish local improvement districts and impose special assessments as authorized by [section 43-4-608](#).

(II) This subsection (1)(j.5) is repealed, effective January 1, 2029.

(k) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted by this part 6. The specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 6.

(2)(a) The board may include property within or exclude property from the boundaries of the authority in the manner provided in this subsection (2). Property may not be included within the boundaries of the authority unless it is within the boundaries of the members of the combination or of the transportation planning organization exercising the powers of an authority as authorized by [section 43-4-622](#) at the time of the inclusion. Property located within the boundaries of a municipality that is not a member of the combination or of the transportation planning organization as the boundaries of the municipality exist on the date the property is included may not be included without the consent of the governing body of the municipality, and property within the unincorporated boundaries of a county that is not a member of the combination or of the transportation planning organization as the unincorporated boundaries of the county exist on the date the property is included may not be included without the consent of the governing body of the county.

(b)(I) Prior to any inclusion in or exclusion of property from the boundaries of the authority, the board shall cause notice of the proposed inclusion or exclusion to be published in a newspaper of general circulation within the boundaries of the authority and cause the notice to be mailed to the division, to the transportation commission, and to the owners of property to be included or excluded at the last-known address described for the owners in the real estate records of the county in which the property is located. The notice shall describe the property to be included in or excluded from the boundaries of the authority, shall specify the date, time, and place at which the board shall hold a public hearing on the proposed inclusion or exclusion, and shall state that persons having objections to the inclusion or exclusion may appear at the public hearing to object to the proposed inclusion or exclusion. The date of the public hearing contained in the notice shall be not less than twenty days after the mailing and

publication of the notice. The board, at the time and place designated in the notice or at such times and places to which the hearing may be adjourned, shall hear all objections to the proposed inclusion or exclusion.

(II) The board, upon the affirmative vote of two-thirds of the directors of the board, may adopt a resolution including or excluding all or any portion of the property described in the notice. Upon the adoption of the resolution, the property shall be included within or excluded from the boundaries of the authority as set forth in the resolution. The board may adopt the resolution without amending the contract required by [section 43-4-603\(2\)](#). The board shall file the resolution with the director of the division, who shall cause the resolution to be recorded in the real estate records of each county having territory included in the boundaries of the authority.

(c) All property excluded from the authority shall thereafter be subject to the revenue-raising powers of the authority only to the extent that the powers have been exercised by the authority against the property or activities occurring on the property prior to the exclusion and to the extent required to comply with agreements with the holders of bonds outstanding at the time of the exclusion. All property or activities occurring on the property included within the authority shall thereafter be subject to the revenue-raising powers of the authority. In no way will this section affect or increase property taxes in the affected territory or jurisdiction.

(3) Property included in an authority pursuant to this section is subject to the same mill levies and other taxes levied or to be levied on other similarly situated property at the time the additional property is included. The newly included property is an addition to taxable real property, and the application of such levies and other taxes to the newly included property is not subject to the requirements of [section 20\(4\) of article X of the state constitution](#). This subsection (3) is intended to place newly included property and similarly situated existing property within an authority on an equal basis.

(4) The board, upon the affirmative vote of two-thirds of the directors of the board, may determine the location of the regional transportation system.

(5) Any regional transportation system constructed by an authority under this part 6 that is funded, in whole or in part, from the highway users tax fund and that may be reasonably expected to exceed one hundred fifty thousand dollars in the aggregate for any fiscal year shall be subject to the construction bidding provisions in part 7 of article 1 of title 29, C.R.S. If the state is involved in the construction of the regional transportation system, the construction bidding provisions in article 92 of title 24, C.R.S., shall apply. Nothing herein shall be construed to affect the ability of such entities to enter into design-build contracts under applicable state laws.

(6) In exercising any of the powers to impose taxes pursuant to subsection (1) of this section, an authority shall, whenever possible, assess any such tax within the boundaries of existing taxing districts in order to reduce the administrative costs of the department of revenue.

Credits

Added by [Laws 1997, H.B.97-1273, § 1, eff. Aug. 6, 1997](#). Amended by [Laws 2000, Ch. 264, § 3, eff. Aug. 2, 2000](#); [Laws 2005, Ch. 269, § 5, eff. Jan. 1, 2006](#); [Laws 2007, Ch. 251, § 1, eff. Jan. 1, 2008](#); [Laws 2008, Ch. 264, § 16, eff. Aug. 5, 2008](#); [Laws 2009, Ch. 127, § 1, eff. Aug. 5, 2009](#); [Laws 2009, Ch. 354, § 16, eff. July 1, 2009](#); [Laws 2017, Ch. 2, § 1, eff. Aug. 9, 2017](#); [Laws 2017, Ch. 101, § 33, eff. Aug. 9, 2017](#); [Laws 2021, \(S.B. 21-260\), § 39, eff. June 17, 2021](#).

Notes of Decisions (1)

C. R. S. A. § 43-4-605, CO ST § 43-4-605

Current through the end of the First Regular Session of the 73rd General Assembly (2021).

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