

# BOARD UPDATE



1290 Broadway • Suite 100 • Denver, Colorado 80203-5606  
main: 303-455-1000 • fax: 303-480-6790 • email: drcog@drcog.org • web: www.drcog.org

## LEGISLATIVE SUMMARY (as of Feb. 15, 2017)

This legislative summary lists the status of all legislation that the Denver Regional Council of Governments (DRCOG) supports, opposes or monitors during the 2016 legislative session, as of Feb. 15, 2017. For additional information, contact Rich Mauro, senior legislative analyst, at 303-480-6778. The DRCOG Legislative Policy Statement as adopted by the Board of Directors states, in part:

DRCOG's legislative activity will be generally focused on the following types of issues:

- (1) Proposals of special significance to the Denver region, or which would have a unique effect upon local governments in this region;
- (2) Proposals that affect DRCOG as an agency or would affect one or more of its programs; and
- (3) Legislation to implement DRCOG special task force recommendations. Support for or opposition to a bill or legislative funding measure will be given, and be subject to reassessment, according to a bill's or measure's consistency with DRCOG's adopted principles and plans.

Bill No. / Sponsor	Short Title / Bill Summary	Status	Staff Comments	DRCOG Position / Legislative Policy
<b>AGING BILLS</b>				
<a href="#">SB17-011</a> Lambert/ Lawrence	<b>Study Transportation Access for People with Disabilities</b> The bill creates a technical demonstration forum to study and document how advanced technologies can improve transportation access for people with disabilities.	Senate Health and Human Services	To demonstrate the transportation access needs of people with disabilities in both urban and rural areas of the state, the forum is directed to study the transportation access needs of people with disabilities in El Paso and Teller counties and explore technological and transportation business solutions that could increase transportation access for people with disabilities in those areas.	<b>Monitor</b> DRCOG supports the following: A system that effectively and efficiently coordinates the resources and delivery of transportation services between providers, the federal government, counties, the Regional Transportation District and the state; increased funding for transportation services for older adults and persons with disabilities; and increased state funding for Medicaid transportation services for older adults and individuals with disabilities.
<a href="#">HB17-1087</a> Young/ Lundberg	<b>Public Guardianship Pilot Program</b> The bill creates the office of public guardianship as a pilot program within the Judicial Department to provide legal guardianship services to indigent and incapacitated adults who have no responsible family members or friends who are available and appropriate to serve as a guardian; and lack adequate resources to compensate a private guardian and pay the costs and fees associated with an appointment proceeding.	House Judiciary	This bill addresses a need in the care industry that has been a concern for a long time. It is the result of a stakeholder process that has been working since a report on the issues in 20114. The pilot program will operate in three judicial districts: Ninth (Denver), Seventh (Montrose) and 16th (Otero).	<b>Support</b> DRCOG supports increases in the quality of care and consumer protections for older adults and their caregivers.

Bill No. / Sponsor	Short Title Bill Summary	Status	Staff Comments	DRCOG Position Legislative Policy
<b>TRANSPORTATION BILLS</b>				
<a href="#"><u>HB17-1018</u></a>	<b>Extend Voter Approval Window for Regional Transportation Authority Mill Levy</b>			<b>Support</b>
Mitsch Bush & Liston/ Gardner	Current law authorizes a regional transportation authority to seek voter approval for a uniform mill levy of up to five mills on all taxable property within its territory, but the authorization is scheduled to repeal on Jan. 1, 2019. The bill extends the authorization until Jan. 1, 2029.	Senate Floor	This bill was introduced last session but failed to pass. DRCOG supported the bill.	DRCOG supports legislation that promotes efforts to create and fund a multimodal transportation system. DRCOG supports funding for programs that provide transportation for "access to jobs" for low-income workers who cannot afford to live near where they work, and for safe routes to schools.
<a href="#"><u>HB17-1031</u></a>	<b>Hearings On Transportation Commission Districts</b> (recommended by the Transportation Legislation Review Committee)			<b>Monitor</b>
Carver & Mitsch Bush/Todd	The bill requires the Transportation Legislation Review Committee to meet five times before Nov. 15, 2017, once in each geographic quadrant of the state and once in the Denver metropolitan area, to: • Make available to meeting attendees the 2016 Legislative Council staff research study of changes to the state transportation commission districts since the boundaries of the districts were last redrawn in 1991; and • Offer opportunities to members of the public to express their opinions regarding the districts or the research study and offer comments and suggestions regarding whether the districts should be modified.	House Appropriations	The 2016 report was prepared with the cooperation of the Colorado Department of Transportation as required by House Bill 16-103. This bill is the response of the Transportation Legislation Review Committee to get public input. DRCOG had a position of "actively monitor" for a similar bill last year.	DRCOG supports legislation that reinforces collaboration between state and regional transportation agencies and recognizes their respective roles, responsibilities and interests.
<a href="#"><u>SB17-153</u></a>	<b>Southwest Chief and Front Range Passenger Rail Commission</b>			<b>Support</b>
Crowder & Garcia/ Esgar	The bill replaces the existing Southwest Chief rail line, the statutory authorization for which expires on July 1, 2017, with an expanded Southwest Chief and Front Range Passenger Rail Commission (new commission).	Senate Finance	The new commission must assume the old commission's powers, duties and mission of preserving existing Amtrak rail line service in the state, extending such service to Pueblo, and exploring the benefits of extending such service to Walsenburg; and facilitate the future of front range passenger rail and specifically present to the legislature by Dec. 1, 2017 draft legislation to facilitate the development of a front range passenger rail system that provides passenger rail service in and along the Interstate 25 corridor. Metropolitan planning organizations, including DRCOG, have representation on the commission.	DRCOG supports legislation that reinforces collaboration between state and regional transportation agencies and recognizes their respective roles, responsibilities and interests.
<a href="#"><u>HB17-1171</u></a>	<b>Authorize New Transportation Revenue Anticipation Notes</b>			<b>Oppose</b>
Buck & Carver/	Requires the Transportation Commission to submit a ballot question to the voters at the November 2017 election which, if approved, would authorize the state to issue additional transportation revenue anticipation notes for the purpose of addressing critical priority transportation needs in the state and dedicating 10 percent of state sales and use tax net revenue for state transportation purposes and one percent of such revenue less \$10 million for other capital construction purposes.	House State Affairs/House Finance/House Appropriations	This bill is essentially the reinstatement of a statutory appropriation of General Fund revenues (sales tax) similar to Senate Bill 97-001. Ever since the SB-001 mechanism was repealed in 2009, DRCOG has expressed concerns about transportation funding bills, such as the TRANS bills of the last two years, that did not include new sources of revenue. Especially when the state is in Taxpayer Bill of Rights rebate situation, removal of such a significant amount from the General Fund would mean major cuts in other programs, such as education, health care and possibly services for seniors.	DRCOG supports legislation that promotes efforts to create and fund a multimodal transportation system.

Bill No. / Sponsor	Short Title Bill Summary	Status	Staff Comments	DRCOG Position Legislative Policy
<a href="#">HB17-1153</a> Williams & McKean/ Gardner	<b>Highway Congestion Mitigation</b> The bill clarifies that high-occupancy vehicle lanes are lanes on which a vehicle carrying two or more individuals, including the driver, may travel and that high-occupancy vehicle lanes are lanes on which a vehicle carrying fewer than two individuals, including the driver, must pay a toll. The bill also raises the priority of currently unfunded projects to expand the capacity of Interstate 25 between Castle Rock and Monument and between State Highway 14 and State Highway 66 by requiring: <ul style="list-style-type: none"> <li>• The Colorado Department of Transportation to put the high-priority projects above all other unfunded projects on its priority list;</li> <li>• all federal money received by CDOT that the federal government does not require to be allocated for other projects and that CDOT has not previously allocated for other projects to be used to fund the high-priority projects before being used to fund other projects; and</li> <li>• any environmental or other studies required to be completed before the projects may begin to be completed no later than six months following the effective date of the bill.</li> </ul>	House Transportation	This bill dedicates future federal funding solely to Interstate 25 (outside of the planning process). The Colorado Department of Transportation says it would cause them to divert funding from maintenance of the system. It also changes the requirement for high-occupancy vehicle lanes from three-plus individuals in the vehicle to two-plus individuals. This contradicts legal and contractual requirements on CDOT.	<b>Oppose</b> DRCOG supports regional and statewide efforts at consensus-building and will work to pursue multimodal transportation solutions. DRCOG supports using the regional and statewide transportation planning processes to explore and identify transportation solutions and will evaluate state legislative and administrative actions for consistency with this policy.
<a href="#">HB17-1171</a> Buck & Carver/	<b>Authorize New Transportation Revenue Anticipation Notes</b> Requires the Transportation Commission to submit a ballot question to the voters at the November 2017 election which, if approved, would authorize the state to issue additional transportation revenue anticipation notes for the purpose of addressing critical priority transportation needs in the state and dedicating 10 percent of state sales and use tax net revenue for state transportation purposes and one percent of such revenue less \$10 million for other capital construction purposes.	House State Affairs/House Finance/House Appropriations	This bill is essentially the reinstatement of a statutory appropriation of General Fund revenues (sales tax) similar to Senate Bill 97-001. Ever since the SB-001 mechanism was repealed in 2009, DRCOG has expressed concerns about transportation funding bills, such as the TRANS bills of the last two years, that did not include new sources of revenue. Especially when the state is in Taxpayer Bill of Rights rebate situation, removal of such a significant amount from the General Fund would mean major cuts in other programs, such as education, health care and possibly services for seniors.	<b>Oppose</b> DRCOG supports legislation that promotes efforts to create and fund a multimodal transportation system.

#### HOUSING BILLS

<a href="#">SB17-045</a> Grantham & Williams A./ Duran & Wist	<b>Construction Defect Claim Allocation of Defense Costs</b> In a construction defect action in which more than one insurer has a duty to defend a party, the bill requires the court to apportion the costs of defense, including reasonable attorney fees, among all insurers with a duty to defend. An initial order apportioning costs must be made within 90 days after an insurer files its claim for contribution, and the court must make a final apportionment of costs after entry of a final judgment resolving all of the underlying claims against the insured. An insurer seeking contribution may also make a claim against an insured or additional insured who chose not to procure liability insurance for a period of time relevant to the underlying action. A claim for contribution may be assigned and does not affect any insurer's duty to defend.	Senate Business, Labor and Technology	This bill (sponsored by the president of the Senate and the speaker of the House) is an attempt to reduce the insurance costs associated with owner-occupied affordable housing projects. The Metro Mayors Caucus had a discussion about the bill with the speaker at its annual retreat where it was noted the bill does not address concerns with litigation issues.	<b>Monitor</b> DRCOG supports an adequate supply and mix of housing options, including actions to provide more accessible and obtainable housing options for older adults.
---	--	---	--	---

Bill No. / Sponsor	Short Title Bill Summary	Status	Staff Comments	DRCOG Position Legislative Policy
<a href="#">SB17-155</a>	<b>Statutory Definition of Construction Defect</b>			<b>Monitor</b>
Tate/Saine	The bill separately defines and clarifies the term "construction defect" in the "Construction Defect Action Reform Act."	Senate Business, Labor and Technology	"Construction defect" is defined as a defect in the design or construction of any improvement to real property that causes any damages to, or the loss of use of, real or personal property or personal injury.	DRCOG supports an adequate supply and mix of housing options, including actions to provide more accessible and obtainable housing options for older adults.
<a href="#">SB17-156</a>	<b>Homeowners' Association Construction Defect Lawsuit Approval Timelines</b>			<b>Monitor</b>
Hill/Saine & Wist	Before a construction defect claim is filed on behalf of the association the parties must submit the matter to mediation before a neutral third party and the board must give advance notice to all unit owners, together with a disclosure of the projected costs, duration and financial impact of the construction defect claim, and must obtain the written consent of the owners of units to which at least a majority of the votes in the association are allocated.	Senate Business, Labor and Technology	Before a construction defect claim is filed on behalf of the association: the parties must submit the matter to mediation before a neutral third party; and the board must give advance notice to all unit owners, together with a disclosure of the projected costs, duration, and financial impact of the construction defect claim, and must obtain the written consent of the owners of units to which at least a majority of the votes in the association are allocated.	DRCOG supports an adequate supply and mix of housing options, including actions to provide more accessible and obtainable housing options for older adults.
<a href="#">HB17-1169</a>	<b>Construction Defect Litigation Builder's Right to Repair</b>			<b>Monitor</b>
Leonard/ Tate	The bill clarifies that a construction professional has the right to receive notice from a prospective claimant concerning an alleged construction defect; to inspect the property; and then to elect to either repair the defect or tender an offer of settlement before the claimant can file a lawsuit seeking damages.	Senate State Affairs		DRCOG supports an adequate supply and mix of housing options, including actions to provide more accessible and obtainable housing options for older adults.
<b>OTHER BILLS</b>				
<a href="#">SB17-057</a>	<b>Colorado Healthcare Affordability and Sustainability Enterprise</b>			<b>Monitor</b>
Guzman/	The bill creates the Colorado Healthcare Affordability and Sustainability Enterprise (enterprise) as a replacement for the current hospital provider fee.	Senate Finance	The new enterprise would be exempt from Taxpayer Bill of Rights (TABOR) and so long as it qualifies as a TABOR-exempt enterprise, fee revenue does not count against either the TABOR state fiscal year spending limit or the Referendum C cap, the higher statutory state fiscal year spending limit established after the voters of the state approved Referendum C in 2005. This would make additional revenues available for the state budget.	No specific Board policy on the hospital provider fee issue but there are Board policies in support of increased funding for transportation and aging services.

Bill No. / Sponsor	Short Title Bill Summary	Status	Staff Comments	DRCOG Position Legislative Policy
<a href="#">SB70-040</a>  Kefalas/ Pabon	<b>Public Access to Government Files</b>  The bill modifies the Colorado Open Records Act with respect to digital or electronic records. It requires custodians of public records to provide records in a structured data format, when requested. Structured data means digital data capable of being automatically read, processed or manipulated by a computer, and it includes data in relational databases and spreadsheets. If digital records are searchable, custodians must provide them in that format, when requested. Nothing in the bill requires custodians to provide digital records in their native format, meaning the format in which they were created or are stored on the custodian's computer or server. The bill provides certain exceptions.	Senate State Affairs	From DRCOG's attorney: Our main concern with this bill is the additional administrative burden it places on the custodian to provide structured data to requestors, or provide a declaration why the custodian is not able to provide the records in the requested format. The bill also authorizes a requestor to legally challenge an alleged failure to provide documents as structured data, and this is another type of claim for which there is a "one-way" attorney fee shifting provision against the public entity. Also, while the custodian is not required to convert a record into structured data or searchable format, the custodian must make inquiries within the agency to determine if this can be done. In a larger organization, this means the custodian may end up spending considerable time trying to track down whether a record exists in, or can be readily converted to, the requested form. DRCOG would have a right to charge a fee for "programming, coding or custom search queries so as to convert a record into a structured data or searchable format," but the administrative burden in responding to structured data Colorado Open Records Act requests may be significant.	<b>Monitor</b>  No specific Board adopted policy. But DRCOG, as a public entity, is subject to the Colorado Open Records Act.