SB 25-162

Fiscal Note

Legislative Council Staff

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SB 25-162: RAILROAD SAFETY REQUIREMENTS

Prime Sponsors:
Sen. Cutter; Snyder
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Published for: Senate Transportation & Energy
Drafting number: LLS 25-0172

Version: Initial Fiscal Note
Date: March 3, 2025

Fiscal note status: The fiscal note reflects the introduced bill.

Summary Information

Overview. The bill gives the Public Utilities Commission the sole authority to inspect and regulate railroads, requires the commission to collect data on railroad safety, and imposes a new fee on railroads.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Expenditures
- TABOR Refunds
- Local Government

Appropriations. For FY 2025-26, the fiscal note requires an appropriation of $849,693 to the Department of Regulatory Affairs.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
State Revenue	$1,303,446	$1,303,446	$1,303,446
State Expenditures	$923,437	$1,690,646	$1,296,254
Transferred Funds	$0	$0	$0
Change in TABOR Refunds	$1,303,446	$1,303,446	$1,303,446
Change in State FTE	4.4 FTE	10.2 FTE	9.7 FTE

Table 1A
State Revenue

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
General Fund	$0	$0	$0
Cash Funds	$1,303,446	$1,303,446	$1,303,446
Total Revenue	**$1,303,446**	**$1,303,446**	**$1,303,446**

Table 1B
State Expenditures

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
General Fund	$849,693	$0	$0
Cash Funds	$0	$1,491,576	$1,097,184
Federal Funds	$0	$0	$0
Centrally Appropriated	$73,744	$199,070	$199,070
Total Expenditures	**$923,437**	**$1,690,646**	**$1,296,254**
Total FTE	**4.4 FTE**	**10.2 FTE**	**9.7 FTE**

Summary of Legislation

Railroad Emergency Notifications

The bill requires the state watch center in the Department of Public Safety (CDPS) to immediately notify the Public Utilities Commission (PUC) and the Office of Rail Safety when it receives a notice from a railroad about an emergency involving a train. Within 30 days, the office must notify specified committees in the General Assembly, and the PUC must provide a report on train emergencies to specified committees by February 1, 2026, and each year thereafter.

Responsibilities of Railroad Crew Members

The bill allows crew members of a train to communicate with first responders during an emergency situation after notifying the railroad dispatch. A crew member may determine the appropriate response to an emergency situation. Railroad employees and crew members are immune from civil liability and are not liable in civil damages for actions taken in good faith when responding to an emergency situation.

Railroad Regulation

Under current law, the PUC, the CDPS, and the Department of Transportation (CDOT) share authority to inspect and investigate class I railroads and passenger railroads. The bill gives the Office of Rail Safety and the PUC this authority exclusively, and also gives them the ability to regulate these railroads under federal statute.

Office of Rail Safety Assessments

The Office of Rail Safety must collect and analyze data to create a more comprehensive understanding of rail safety. This includes compiling existing data collected by the Federal Railroad Administration and collecting additional data on railroads and facilities, including data on train length, wayside detectors, blocked public crossing locations, and maintenance activities. The office will work with advisory committees on implementing recommendations that come from these analyses.

The bill requires the Office of Rail Safety to coordinate with the CDPS and the Department of Public Health and Environment to conduct a comprehensive assessment on the state's ability to respond to a large-scale release of hazardous materials from rail. The office must present its findings to the General Assembly by December 15, 2026, and work with advisory committees implementing the recommendations in the assessment.

The bill also requires the Office of Rail Safety to assess best practices for ensuring financial responsibility for response, cleanup, and damages from major rail events; and monitor and assess communication issues impacting rail lines, including communication with state entities, between crews working on long trains, and from wayside detectors to crews.

Rail Safety Fund and Railroad Fee

The bill creates the Office of Rail Safety Fund and an annual rail safety fee to cover the costs of implementing the bill, paid by class I railroads and passenger railroads. The bill specifies factors the PUC must use to calculate the fee. Railroads subject to the fee must pay it in quarterly installments, and a railroad that does not pay the fee is assessed a penalty of 10 percent of the installment plus interest until the full amount is paid.

Background

Class I and Passenger Railroads

The PUC currently regulates three railroads that meet the criteria in the bill:

- BNSF Railway Company, a Class I railroad with 1,316 miles of track;
- Union Pacific Railroad Company, a Class I railroad with 1,734 miles of track; and,
- Amtrak, a passenger railroad that uses the BNSF and Union Pacific track.

Between these railroads, the PUC will inspect and regulate 3,050 miles of track annually.

Recent Legislation and Railroad Regulation

House Bill 24-1030 created the Office of Rail Safety and required the PUC to enter into an agreement with the Federal Railroad Administration to participate in inspection and investigation activities. This fiscal note assumes that by adding the word “regulate” to inspection and investigation activities – and giving the PUC the sole responsibility to do so – this year’s bill gives the PUC new authority to regulate railroads as set by the Code of Federal Regulations.

State Revenue

The bill increases state revenue to the PUC in the Department of Regulatory Agencies (DORA) by about $1.3 million per year starting in FY 2025-26 from fees paid by the three railroads covered by the bill. Revenue will be deposited into the Office of Rail Safety Fund and is subject to TABOR.

Fee Impact on Railroads

Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the Public Utilities Commission based on program costs and the number of railroads subject to the fee. The table below identifies the fee impact of this bill.

Table 2
Annual Fee Impact on Railroads
Starting in FY 2025-26

Estimated Fee[1]	Number Affected	Total Fee Impact
$434,482	3	$1,303,446

[1] The fee shown is the average annual fee amount necessary to cover the costs of implementing the bill in the first three years. The fee paid by each individual railroad will be more or less depending on the factors described in the bill.

State Expenditures

The bill increases state expenditures in the PUC in the DORA by about $923,000 in FY 2025-26, $1.7 million in FY 2026-27, and $1.3 million in ongoing years. These costs, paid from the General Fund in FY 2025-26 and the Office of Rail Safety Fund in subsequent years, are summarized in Table 3 and discussed below. The bill also minimally affects workload in the Department of Transportation and the Department of Public Safety.

Table 3
State Expenditures
Department of Regulatory Affairs

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Personal Services	$325,419	$871,528	$871,528
Operating Expenses	$4,480	$12,160	$12,160
Capital Outlay Costs	$33,350	$40,020	$0
Equipment Costs	$82,460	$247,380	$0
Travel Costs	$40,000	$160,000	$160,000
Hazardous Materials Study Consultant	$150,000	$0	$0
Legal Services	$213,984	$160,488	$53,496
Centrally Appropriated Costs	$73,744	$199,070	$199,070
FTE – Personal Services	3.5 FTE	9.5 FTE	9.5 FTE
FTE – Legal Services	0.9 FTE	0.7 FTE	0.2 FTE
Total Costs	**$923,437**	**$1,690,646**	**$1,296,254**
Total FTE	**4.4 FTE**	**10.2 FTE**	**9.7 FTE**

Department of Regulatory Agencies

The PUC requires staffing and legal services to implement the bill beginning in FY 2025-26.

Staff

The bill requires 3.5 FTE in FY 2025-26 and 9.5 FTE in FY 2026-27 and ongoing to perform the railroad inspections, data analyses, and to generate the reports required by the bill. Standard operating and capital outlay costs are included.

Railroad Inspectors

In order to investigate, inspect, and regulate railroads, the PUC requires 8.0 FTE of inspectors (classified as environmental protection specialists) to inspect railroad tracks, crossing and train-control signals, rail cars and engines, hazardous materials, and railroad operating practices. Each inspector is expected to perform two inspections per week, with each inspection taking a minimum of two days to complete. Inspectors will also incur one-time equipment costs and annual travel costs. The fiscal note assumes 2.0 FTE of inspectors will begin work in July 2025, with the remaining inspectors beginning work in July 2026.

Analysts

Staff will include 1.5 FTE of data analysts and communication specialists to collect, analyze, and compile data and information on rail safety, financial responsibility, and communication issues impacting rail lines. This staff will also help prepare annual reports to the General Assembly. The fiscal note assumes a July 2025 start date.

Hazardous Materials Study

The PUC will hire a consultant in FY 2025-26 only to lead the assessment on the state's ability to respond to a large-scale release of hazardous materials from rail transportation.

Legal Services

The PUC requires 1,600 hours of legal services in FY 2025-26, 1,200 hours in FY 2026-27, and 400 hours ongoing to conduct rulemaking and provide general counsel. The State Services Unit in the PUC requires the majority of these legal services to assist with rulemaking and develop processes for the issuance and filing of civil penalty assessment notices for the Office of Rail Safety. Legal services are provided by the Department of Law at a rate of $134 per hour.

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 may include employee insurance, supplemental employee retirement payments, leased space, and indirect cost assessments, are shown in the expenditure table above.

Other Agency Impacts

Department of Public Safety

The bill decreases workload for the CDPS, as it removes the requirement for the CDPS to collaborate with the Office of Rail Safety on inspecting and investigating railroads. It also may increase workload for the State Watch Center to notify the Office of Rail Safety of any rail emergency incidents. Any impact on workload is expected to be minimal.

Department of Transportation

Similar to the CDPS, the bill decreases workload for the Division of Transit and Rail in CDOT as the bill removes the requirement for CDOT to collaborate with the Office of Rail Safety.

Judicial Department

The bill may impact workload for the trial courts. The number of civil filings may decrease as railroad employees or crew members acting in good faith during an emergency involving a train would be granted immunity from civil liability. Meanwhile, civil filings could increase for any action taken against railroads that fail to pay the fee outline. The fiscal note assumes a high level compliance, resulting in minimal additional cases. Any impact to the Judicial Department can be managed with existing resources.

Local Government

The bill increases workload for some local governments and local emergency services to coordinate with the Office of Rail Safety on safety assessments and the rulemaking process.

TABOR Refunds

The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2025-26, the bill requires an appropriation of $849,693 from the General Fund to Office of Rail Safety in DORA, and 3.5 FTE. Of this amount, $213,984 is reappropriated to the Department of Law, with an additional 0.9 FTE.

State and Local Government Contacts

Judicial

Law

Personnel

Public Safety

Regulatory Agencies

Transportation

Treasury