

## **CHAPTER 8: COUNTY ROADS AND BRIDGES**

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## **CHAPTER 8: COUNTY ROADS AND BRIDGES**

County commissioners are responsible for the construction and maintenance of over 58,000 miles of county roads and over 3,000 county bridges in Colorado. Road and bridge construction and maintenance, which includes actions like grading, paving, establishing drainage systems and snow removal, are generally overseen by county road and bridge departments. A majority of counties have a road and bridge supervisor or engineer (“road supervisor”) who oversees the road and bridge department. However, in some rural counties the commissioners themselves serve as road and bridge supervisors for their own districts. In this chapter we discuss the role of county governments with regards to road and bridge construction and maintenance. A short explanation of the duties and rights of third-party users is also included. A discussion of road and bridge finance issues is presented in chapter five.

Many of the statutes regarding road and bridge management are antiquated and somewhat out-of-step with modern road and bridge management practices. For example, the terms “primary road” and “secondary road” are used in statute quite frequently, but they are not part of the current road and bridge vernacular in many counties. In general, a “primary road” is determined by the Board of County Commissioners (BOCC) of each county on the basis of “greatest general importance”. “Secondary roads” consist of all roads not included in the county’s primary system. Commissioners are urged to confer with their road supervisor and county attorney if they have questions about certain terms or requirements.

### **POWERS AND DUTIES OF THE BOARD OF COUNTY COMMISSIONERS**

#### **General**

The BOCC has the power to lay out, alter or discontinue any road running into or through the county and to perform such other duties regarding roads as are required by law. The BOCC may levy taxes and contract loans for the purpose of making or repairing county roads or bridges. However, loans for this purpose must be authorized by a vote of the electorate of the county. Under the BOCC’s general power to make orders concerning county property, the BOCC may purchase and maintain county road equipment. C.R.S. §30-11-107.

#### **Establish Road Districts**

BOCC may divide their counties into individual road districts or may combine their counties with other counties to create larger road districts. C.R.S. §43-2-111 (3).

#### **Appoint Road and Bridge Supervisors**

The BOCC may appoint a county road supervisor (or engineer) or district supervisors or may appoint a district supervisor in conjunction with the BOCC of another county for an inter-county road district. In general, the road supervisor is responsible for all road and bridge inspections, road personnel, road machinery and tools owned by the county. The board(s) determine(s) the policies to be followed by the road supervisor. County commissioners may serve as road supervisors but may receive only their salary as county commissioner. C.R.S. §43-2-111.

## **Public Highways**

Upon approval of the BOCC, roads over private lands that have been dedicated to the public use by deed are considered public highways. Deeds must be filed with the county clerk and recorder and a certificate showing the date of the dedication and the lands dedicated shall be filed with the county assessor in which such roads reside. In addition, all roads over private lands that have been used adversely without interruption or objection on the part of the owners of such lands for twenty consecutive years are declared public highways. C.R.S. §43-2-201.

## **Acquire Rights-of-Way and Roads**

The BOCC has a number of methods by which to acquire rights-of-way and roads. They include:

### **Condemnation**

A BOCC may condemn any land required for the construction, widening, reconstruction or alteration of any county road or right-of-way when necessary to the public interest or convenience. It shall ascertain the damages due each property owner affected thereby and shall provide for payment therefore. C.R.S. §43-2-112 and 204 (*See also* articles 1 through 7 of title 38, C.R.S.) If a BOCC acquires land for a public road by lease and such land is encumbered by a prior lease to another party, the BOCC may acquire the prior lease rights by condemnation. C.R.S. §43-2-206.

### **Lease**

A BOCC may lease rights-of-way over public lands not being used for the purposes for which dedicated under such terms and conditions as it may think appropriate and may construct and maintain roads thereon. C.R.S. §43-2-205.

### **Abandonment**

When a portion of a county primary system is relocated, and as a result of such relocation, the BOCC deems it no longer necessary as part of the county road system, such portion shall be considered abandoned. Title of the land through which such abandoned portion may lie shall revert to the owner of such land, within specified limitations. If the abandoned road is necessary as a secondary road, the BOCC may pass a resolution affecting such road. If necessary, damages for such relocation shall be determined, tendered, and paid according to law. C.R.S. §43-2-112 and 113.

When a portion of a state highway is abandoned due to relocation of the state highway or a determination by the state and affected local governments that a portion of a state highway no longer functions as part of the state highway system, the BOCC, by resolution, may determine that the abandoned highway is needed as a public highway. Within 90 days of its abandonment, that portion shall become a county road or highway. If the Colorado Transportation Commission determines a landowner has suffered damages, such damages shall be paid out of funds of the Colorado Department of Transportation (CDOT). C.R.S. §43-2-106 and 110.

A BOCC may join with the State Department of Transportation to jointly acquire land by any legal means for use as a freeway, highway, or road. C.R.S. §43-3-107.

### **Purchase and Donation**

A BOCC may acquire rights-of-way by purchase, donation, or eminent domain on any

private or public property necessary for the improvement or construction of state highways. C.R.S. §43-2-204.

### **Tax Lien Sale**

If a BOCC sells land acquired by tax deed, it may reserve prior to sale such rights as may be required for streets, alleys, roads, utilities, or other easements. C.R.S. §39-11-143(2).

### **Electric Railways**

A board, with approval of a majority of property owners abutting both sides of a proposed electric railway alongside of or upon a county road, may condemn lands necessary for such right-of-way. C.R.S. §40-24-102.

### **Vacate Roads/Rights-of-Way**

A BOCC may vacate any roadway or part of a roadway which is located entirely within the county and if it is not within the limits of any city or town. County line roads may be vacated only by joint action of the respective boards of the counties along whose common boundary it lies. C.R.S. §43-2-303. Any roadway that has been established as a county road at any time can only be vacated through resolution by the board. Further, no platted or deeded roadway which exists by right of usage shall be vacated so as to leave any land adjoining it without an established public road or private-access easement connecting the land with another established public road. C.R.S. §43-2-303.

Title to a vacated roadway shall vest in the owners of the abutting land. Each abutting owner is responsible for the portion of the vacated roadway closest to his/her property. However, the BOCC may provide that title to a vacated roadway shall vest, subject to a public-access easement or private-access easement that benefits designated properties, in the owner of the land abutting the vacated roadway, in the other owners of land who use the vacated roadway as access to the owner's land or in a legal entity that represents any owners of land who use the vacated roadway as access to the owner's land. C.R.S. §43-2-302.

### **Classification of Roads**

The BOCC must prepare a map that establishes a "primary system" and a "secondary system" of county roads. The BOCC designates primary system roads on the basis of greatest general importance. As designated, the primary system must comprise an integrated system within itself or within the state highway system. Primary system roads must be constructed, where practicable, to generally-accepted standards for county primary roads and must conform to state standards for the same class of roads. Roads not designated as primary system roads, for which the county assumes responsibility, are designated as secondary system roads.

A BOCC must maintain a map showing its primary and secondary road systems on which primary system roads are designated by an appropriate number. The BOCC must publish notice for at least two weeks of a public hearing at which it will adopt and designate the county's primary and secondary road systems in a newspaper of general circulation within the county. C.R.S. §43-2-108, 109, 110 and 114.

### **Maintenance of Bridges over Ditches and Canals**

Bridges over any ditch, drain or flume crossing any public roads or highways must be maintained by and at the expense of the county. This maintenance requirement pertains mostly to irrigation

systems. C.R.S. §37-84-106.

### **Underground Utilities and 811 Locates**

When a county plans to conduct any excavation in a right-of-way (road, shoulder or ditch) it must first place a call to the 811-Utility Notification Center of Colorado (UNCC) for utility locates. C.R.S. §9-1.5-103. If a county fails to place this call and subsequently damages underground utility infrastructure, the county can be fined \$5,000 for any initial damage and up to \$70,000 for any additional damage. C.R.S. §9-1.5-104.5 (1)(c).

Beginning in June of 2022, county road and bridge departments will be able to conduct basic maintenance (i.e., grading) on unpaved county roads without having to call Colorado 811 for utility locates - provided that the maintenance activity doesn't lower the grade of the road or adjacent ditches or disturb more than six inches of soil. C.R.S. §9-1.5-103. Any roadwork that disturbs more than six inches of soil will still require a call to Colorado 811.

### **Construct and Maintain Roads**

A BOCC may construct highways using county personnel or it can put construction up for bid by private contractors. It may also contract with the state or federal governments for construction projects not exceeding a cost of \$100,000. In the latter cases construction workers must be residents of Colorado and preferably of the county in which the work is to be performed. C.R.S. §43-2-208.

Road construction projects proposed by the BOCC may be advertised in a legal newspaper within the county or post a notice in the county courthouse for at least 10 days before letting; the advertisements shall call for sealed proposals to perform the work. If, however, the BOCC decides that such advertising threatens the preservation of public peace, health and safety, advertising is not mandatory. C.R.S. §43-2-209.

Contracts for \$5,000 or more must be advertised and must be awarded to the lowest responsible bidder with the BOCC reserving the right to reject any bids proffered. C.R.S. §43-2-209. In so far as possible, county residents only are to be employed on county road and bridge projects. C.R.S. §43-2-210.

A BOCC may acquire lands, by condemnation or otherwise, to lay out and construct county roads through cities and towns whenever necessary for a convenient link between county roads. County roads located in cities and towns shall be maintained by such cities and towns, which, by agreement with the board, may be paid for all, or a part of such maintenance costs; cities or towns and the BOCC also may contract for that maintenance with each other through an intergovernmental contract. C.R.S. §43-1-217.

### **Regional Transportation Authorities**

Counties and cities may combine to create Regional Transportation Authorities to finance, construct, operate or maintain regional transportation systems. Proposed authorities must begin by creating a contract. The contract must outline the boundaries of the authority and the term of the contract among other things. C.R.S. §43-4-603. Contracts must receive certification from the Director of Local Government and copies must be given for comment to the Department of Transportation, any impacted Public Highway Authorities, and to all counties and cities that are not a part of the proposed authority but that border the territory of the proposed authority.

C.R.S. §43-4-603 (1). Voter approval must then be sought. C.R.S. §43-4-603 (3). Authorities can fund projects through fees, tolls, rates, and charges levied on users traveling on projects financed, constructed, operated, or maintained by the authority. Funding can also be achieved through an annual motor vehicle registration fee, a visitor benefit tax, a sales tax, a use tax and/or a property tax. C.R.S. §43-4-605.

### **Commercial Driver's License Requirements**

State and federal regulations require county employees operating certain vehicles to possess a commercial driver's license. These vehicles include:

- ◆ Any vehicle weighing more than 26,000 pounds;
  - ◆ Any vehicle designed to transport 16 or more people; and
  - ◆ Any vehicle transporting hazardous waste.
- C.R.S. §42-2-402(4)(a) and 49 App. U.S.C. sec. 2701 et seq.

### **Use of Inmate Labor for Construction or Maintenance**

A BOCC may employ convicted inmates lodged in the county jail for construction and maintenance of any public road within the county. However, the BOCC is forbidden to use such labor on bridges or on other structures requiring skilled labor. C.R.S. §17-26-107(2).

### **CDOT Oversight of Projects**

The Colorado Department of Transportation (CDOT) is required to inspect any highway project undertaken by a county that involves expenditure of federal or state Highway Users Tax Funds (HUTF). This inspection is to assure compliance with prescribed standards. C.R.S. §43-2-122.

### **Agreements on Boundary Roads**

The BOCCs of counties needing a road on a common boundary may mutually agree upon the location of such a road, the responsibility of the respective counties for its construction and maintenance and the designation of a road supervisor who shall survey the proposed road and report back to the boards. C.R.S. §43-2-117.

### **Authorization to Toll Highways**

Local governments are authorized to approve proposals to toll state highways that are currently toll-free. Specifically, the State Transportation Enterprise cannot toll state highways unless it 1.) has obtained required federal approval and 2.) has obtained the approval of every local government that includes territory in which all or any portion of the highway for which the toll is proposed passes or that will otherwise be substantially impacted by the imposition of a toll. C.R.S. § 43-4-808.

### **Contracts with Other Government Entities**

A BOCC may contract with the Colorado Department of Transportation (CDOT), the state Transportation Commission, another county or counties or any city or town within the county for construction, maintenance, or both of any public highway. C.R.S. §43-2-104. If such a contract covers more than one-year, complete payment for all years of the contract need not be budgeted before making the contract. C.R.S. §43-2-104, 104.5, and 144.

### **Collect for Damages to Roads**

A BOCC may bring a civil action to collect damages from any person causing damage to any

public road or highway. C.R.S. §42-4-512. A BOCC may recover damages not to exceed \$3,500 (in addition to court costs and attorneys fees) for damages inflicted by a minor upon county property, including county roads and bridges. C.R.S. §13-21-107.

### **Traffic Regulation**

State law generally governs traffic regulation and the powers of local authorities to expand upon such regulation. Therefore, certain statutes prohibit local authorities from enacting regulations dealing with driving under the influence of alcohol or drugs and registration of vehicles and driver licensing. Local action is limited to enforcement of state laws in those areas, while other statutes permit setting of speed limits, parking restrictions, etc.

Generally, the BOCC may, by resolution, regulate parking, prohibit processions or assemblages on the highways, create one-way streets and roads, designate “through” roads, install stop signs, designate truck routes, establish or alter speed limits within limits set by state statutes and take other actions purely local in nature so long as the essential uniformity of traffic law and enforcement throughout the state is maintained.

**NOTE:** The Manual on Uniform Traffic Control Devices, published by the Federal Highway Administration, has been adopted by both the state highway commission and the state legislature. The manual has the force and effect of law on roads in the state and contains requirements that local governments conduct appropriate traffic studies prior to posting certain signs.

Commissioners are strongly urged to consult with their county attorney or an engineer knowledgeable in traffic regulations prior to taking any formal action.

### **Regulating Overweight Vehicle Access**

The BOCC may grant permission for the operation of overweight or oversized vehicles on county roads and highways. Required permits must be issued in accordance with criteria contained in ordinances or resolutions adopted by the BOCC after a public hearing. Effective on and after July 1, 1996, any BOCC adopting such resolution or ordinance shall file a copy of it with the Colorado Department of Transportation (CDOT) and the Motor Carrier Services Division of the Colorado Department of Revenue. C.R.S. §42-4-510 and 511.

### **Speed Limits and Stop Signs**

Following appropriate surveys and with the approval of CDOT, the BOCC may lower statutory speed limits. When considering whether to lower a statutory speed limit in a residential area, the BOCC may consider additional criteria such as road characteristics, parking practices and pedestrian/bike activity. C.R.S. §42-4-1102(2). Boards may also post stop signs and speed limits on private roads after first posting notice that such action shall be taken. C.R.S. §42-4-1101 through 1104.

### **Traffic Signals**

A BOCC may not require stops by traffic on state highways unless written approval has been obtained from CDOT. It may not maintain three or more traffic signals within one minute’s legal driving time of each other without synchronizing those signals so as to expedite traffic flow. C.R.S. §42-4-602.

### **Enforcement of Traffic Regulations**

Both officers of the Colorado State Patrol and deputies of the county sheriff are empowered to enforce traffic regulations. Also, the BOCC has authority to adopt ordinances “to control and regulate the movement and parking of motor vehicles on public property” except for regulating the speed limit on state highways, which is considered to be statewide in nature. Ordinances to accomplish such regulation are advantageous over resolutions since fines for ordinance violations are paid into the county rather than state treasury. C.R.S. §§16-3-102, 103, and 105, 24-33.5-203 and 204, 30-15-401(1)(h) and 42-4-110 and 111.

### **Bicycle Operation and Electronic Bicycles**

Counties may adopt ordinances allowing cyclists to slow at a stop sign but continue on without stopping if it is safe to do so. C.R.S. §42-4-1412.5. Counties may prohibit the operation of electrical assisted bicycles (e-bikes) on bike and pedestrian paths. C.R.S. §42-4-1412(14)(a)(II).

### **Off-Highway Vehicles (OHVs)**

Off-Highway Vehicles (OHVs) are not permitted on county roads unless specifically authorized by the board of county commissioners through resolution or ordinance. County commissioners may also adopt additional safety requirements for OHV operation. C.R.S. §33-14.5-110.

### **Electronic Scooters**

Electronic scooters are included in the definition of ‘motor vehicle’ and are therefore authorized to be used on roadways. Electric scooter users have the same rights and duties as riders of assisted bicycles. Counties may regulate the operation of an electric scooter in a manner that is no more restrictive than the manner in which the county regulates electrical assisted bicycles. C.R.S. §42-4-221 (8.5)

### **Roadside Memorials**

Counties may establish a permitting process for roadside memorials but may not prohibit or deny requests for roadside memorials on county roads in the absence of a permitting process that complies with statute. For counties that choose to develop an application for a permit, the permit shall include the type, proposed location and dimensions of the proposed county memorial, the name and address of the applicant, the name of the individual memorialized and the highway where such individual lost his or her life, an agreement by the applicant to erect and maintain the county memorial in a safe, sound, and good condition and a uniform fee not to exceed the county’s direct and indirect expenses associated with issuing and administering the permit. A board of county commissioners, or the board’s designee, shall deny an application if the proposed type or location of the memorial would result in a potential safety hazard or maintenance impediment. An application can also be denied or revoked for false or misleading information given in the application or for the erection or maintenance of a county memorial in violation of statutory provisions. C.R.S. §43-2-149.

### **Remove Abandoned Vehicles**

The BOCC is empowered to enforce and provide for the removal, storage, and disposal of abandoned and illegally parked motor vehicles on both public and private land. C.R.S. §42-4-



1803. The responsible law enforcement agency and the towing carrier may be reimbursed by the owner for recovering and securing the vehicle. C.R.S. §42-4-1803 through 2103.

### **Establish Cattle Guards**

A BOCC may establish cattle guards on roads and highways at county expense or permit the owners of land adjoining county roads and highways to establish such guards. Criteria for design and installation of cattle guards are controlled by the BOCC. C.R.S. §43-2-211.

### **Restrict Highway Use**

By ordinance or resolution, a BOCC may restrict or close a highway within its jurisdiction for up to 90 days for reasons of weather. It may also limit the weight of vehicles using such roads or highways in order to prevent unnecessary damage to them. C.R.S. §42-4-106.

Counties have the authority to prohibit motor vehicles from travelling on roughed-in roads (defined as areas of ground that have been cut with the intention of making a roadway but have not been improved enough to qualify as a roadway). CRS §42-4-106(3)

### **Cooperate with the State Establishing Intersections with Freeways**

A BOCC may enter into agreements with the chief engineer of the Colorado Department of Transportation (CDOT) to close county roads intersecting with a freeway near the point of intersection; it may route the roads concerned under, over or to connect with such freeway. C.R.S. §43-3-101 through 107.

### **Cooperate with State to Remove Graffiti from CDOT Facilities**

A BOCC may enter into a memorandum of understanding (MOU) with CDOT to remove graffiti from CDOT facilities (such as overpasses and sound walls along state highways). Any such removal must be paid for by the county. C.R.S. §43-1-122

### **Spray Roadsides to Control Weeds or Pests**

A BOCC may expend road and bridge fund monies to spray lands bordering on county roads in order to destroy noxious weeds and infestations of insect pests. It may also do so to maintain lands and surfaces within the right-of-way of any public road. C.R.S. §43-2-207.

### **Pioneer Trail Designation**

A BOCC may designate any public roads in the county as a section of a pioneer trail and establish interpretive and educational signage along these sections. C.R.S. §30-11-127.

### **Report to the State Transportation Commission**

The BOCC is required to annually submit to the state Transportation Commission its priorities for construction and maintenance of roads and highways under its jurisdiction. C.R.S. §43-2-137.

## **DUTIES AND RIGHTS OF THIRD-PARTY USERS**

### **Construction and Maintenance of Culverts**

After obtaining approval of the BOCC, the owner of any ditch proposed to cross a county road or highway shall construct culverts or bridges over such ditch, flume or drain according to requirements set by the BOCC. Should the ditch owner fail to do so, the road supervisor shall cause construction of the culverts or bridges in accord with plans approved by the BOCC when approval for said crossing was given.

The owner shall pay a penalty of \$25 daily until the culverts or bridges are constructed as well as the costs of any culverts or bridges constructed by the road supervisor.

C.R.S. §43-5-305.

Once the culvert or bridge has been constructed, the BOCC is responsible for maintaining the bridge or culvert. C.R.S. §37-84-106.

### **Livestock on Highways**

If the road or highway is separated from the land by a fence or other barrier sufficient to keep such livestock off the public right-of-way, no person in charge of livestock may allow stock to graze or otherwise be at large on a public road or highway. Any peace officer may seize such livestock and provide for their care and feeding. The cost of such care and feeding shall be charged to the livestock owner. If, after a reasonable search and inquiry, the ownership of the livestock cannot be determined, the State Board of Stock Inspection commissioners or its designee may sell the livestock to pay the expenses of such care and feeding. C.R.S. §35-46-105.

### **PUC Oversight of Rail Crossings**

The Public Utilities Commission (PUC) is empowered to determine where rail crossings may be located and their grade. Signals, signs, and other safety devices are required at such crossings to protect the public. In the event a crossing signal is required, the Commission may prescribe the share of its cost to be borne by the state's highway crossing protection fund, by the county in whose jurisdiction the crossing is located and by the railway company. C.R.S. §40-4-106.

In certain circumstances, counties may abolish a railroad crossing at grade for any public highway or road without a hearing before the PUC. Railroad crossings subject to this provision must meet specific criteria outlined in statute. C.R.S. §40-4-106.

### **Prohibition on Erecting Signs**

No person may erect a sign upon or in view of a highway, which purports to be, is an imitation of or resembles an official traffic control device. Exceptions to this rule are: 1) commercial advertising on informational signs erected by CDOT and 2) official traffic control devices for authorized vehicles on private property in unincorporated areas of the county (when placed at the request of the owner or lessee of such property). If an unlawful sign is erected on a public road in the county's jurisdiction, the county may remove it or cause it to be removed without notice. Any person violating this provision is guilty of a traffic offense. C.R.S. §42-4-606.

### **Railroad Quite Zones**

Counties are authorized, acting through a public improvement district or a local improvement

district, to install safety measures that restrict the sounding of locomotive horns at highway-rail crossings. Local governments are permitted to establish “railroad quiet zones” in compliance with federal law. C.R.S. §30-20-512.

### **Refrain from Obstructing**

No person may cause or permit a highway to become obstructed by damaging it in any way or by permitting wastewater, water from an agricultural crop sprinkler system or other substances to flow across it. Dams may not be constructed so as to cause water to flow across or to otherwise obstruct a public road. C.R.S. §43-5-301 through 304.

### **Toll Road Authority**

In recent years statutes have been adopted giving counties more power in deciding whether a toll road may pass through the counties’ borders. A corporation formed for the purpose of constructing a toll road must file a disclaimer of interest and a map of the three mile corridor and proposed route for the toll road with the county clerks for each applicable real property owner within the proposed route. C.R.S. §7-45-108 (1)(b). Additionally, the corporation is required to obtain approval of toll road construction plans from the board of county commissioners in which county roads or streets affected by the construction are located C.R.S. §38-2-101(3). The corporation must update as changes necessitate a map or survey of the proposed route, within three miles, over or across any county land. C.R.S. §38-2-101(2). Finally, the corporation is also required to obtain the consent of the appropriate municipal or county authorities before constructing a private toll road or toll highway upon over or under any county or municipal road, street, or alley. C.R.S. §38-2-101(3).

The BOCC, in which counties’ roads or streets affected by proposed construction are located, approves toll road construction plans. C.R.S. §38-2-101(3).

The BOCC is allowed to levy a tax, fee, or charge on a toll road or toll highway authority but only levy a construction permit fee to the extent that the permit fee applies to all persons seeking a construction permit. C.R.S. §38-2-101(4)(a).

### **Use of Heavy Equipment**

Anyone operating heavy machinery or causing it to be transported along a public road or highway, must take all steps necessary to protect the road or highway, and related walks, bridges, culverts, or causeways. C.R.S. §43-5-306.

## **Entities That May Obtain Easements**

### **Conservancy Districts**

Conservancy districts are given superior right of eminent domain over all other governmental entities. Thus, any conflict between a conservancy district and a county involving a county road or highway would be resolved in favor of the conservancy district - to the extent that any damage inflicted on the road or highway would be permitted and limited to that which is necessary to accomplish the lawful objectives of the conservancy district. C.R.S. §37-3-117.

**Other Districts**

The board of a drainage district is empowered to cross any land or structure including public roads and highways with its works. It may condemn public or private lands including roads and highways to assure accomplishment of its purposes. C.R.S. §37-24-103.

The board of any water and sanitation district may construct and maintain works along or across any public road or highway, or any vacant lands that are the property of the state of Colorado. The board also may condemn easements along or across such public roads or highways, or elsewhere. The board may make such rules as it deems necessary and may require the payment of reasonable fees to insure proper restoration. However, a water district cannot overstep boundaries with another water district without obtaining prior consent from that water district. C.R.S. §32-1-1001 and 1006.

The board of a metropolitan district may construct and maintain works along or across any public road or highway, provided that it repairs damage to same as soon as possible; and it may also condemn property for such purposes. C.R.S. §32-1-1001 and 1004.

**Telecommunications Providers**

Any public or private telecommunications provider may obtain easements for construction, maintenance, and operation of its lines across, upon, along or under any public highway. Such easements shall only be utilized without hindering or obstructing the use of the highway. The telecommunications provider must obtain the local governmental authority's consent prior to obtaining the easement. A local government cannot unreasonably withhold the consent. C.R.S. §38-5.5-106.

Counties may charge a license fee or a street or public highway construction permit fee for any right or privilege of engaging in business or for use of a public highway. This permit fee may be used to cover the cost of regulating and inspecting any telecommunication installation or other work within a right-of-way. Any fees levied shall be reasonable and be competitively neutral among telecommunications providers. C.R.S. §38-5.5-107.

**Utilities**

Any public or private electric, gas or pipeline company may obtain easements for construction, maintenance, and operation of its lines across, over or under the right-of-way of any road or highway. Such easements shall only be utilized without hindering or obstructing the use of the highway. In certain circumstances, easements may be obtained on railroad-right-of-ways. C.R.S. §38-5-101 through 106.

# HIGHWAY USERS TAX FUND (HUTF) AND FASTER

## HUTF Revenue Streams and Distributions

### Revenue Streams

HUTF dollars paid to the counties of Colorado come from two Revenue Streams.

#### First Stream

The first Revenue Stream comes from the first seven cents of the excise tax on all motor fuel, in addition to miscellaneous collections from motor vehicles, drivers' licenses and court fines. Colorado's counties receive 26 percent of this first distribution stream. C.R.S. §43-4-205.

#### Second Stream

The second Revenue Stream comes from the remaining 15 cents of the 22 cents per gallon gasoline tax, the next 13.5 cents of the 20.5 cent per gallon special fuels tax and the road safety surcharge. Of this second stream, Colorado's counties receive 22 percent of the total. C.R.S. §43-4-205.

### Distributions

#### First Tier Distribution

Colorado allocates the first \$69.7 million of county revenues to all counties in amounts fixed by statute since 1988. C.R.S. §43-4-207. (See schedule on page 8-14.)

#### Second Tier Distribution

Colorado allocates the next \$17 million of county revenues to 17 counties according to specifications in the HUTF statutes. C.R.S. §43-4-207. (See schedule on page 8-14.)

#### Third Tier Distribution

Finally, all revenues in excess of the First and Second tiers are allocated on the basis of a formula incorporating rural vehicle registrations, countywide vehicle registrations, square feet of bridge decking and lane miles adjusted for terrain type and surface type. C.R.S. §43-4-207.

### Cash Flow to Counties

As HUTF revenues are received by the Treasury Department disbursements to Colorado's counties are paid out in this three-tier order. First, payments are made based on the allocations to the counties listed in the statute for tier one. Next, disbursements are paid out to the 17 statute-designated counties until those obligations are fulfilled. Counties not included in the 17-county second tier will not receive HUTF funds until all second-tier obligations have been fulfilled. At that time, the third-tier dollars are paid to the counties from the balance of the revenue streams that occur through the end of the fiscal year.

### FASTER Revenues

In 2009, the Colorado General Assembly passed the Funding Advancements for Surface Transportation and Economic Recovery (FASTER) Act as a way of enhancing transportation revenue and beginning to address deteriorating highways, roads, and bridges.

FASTER revenues are state collected, locally shared revenues derived from various surcharges and late fees on vehicle registration. FASTER revenues are apportioned to counties using the same formula as HUTF. C.R.S. §43-4-801 et seq. FASTER revenues that come to the county are to be used only for county road safety projects. C.R.S. §43-4-207

### **HUTF/FASTER Projections**

Colorado Counties, Inc. publishes an HUTF/FASTER projection schedule and distributes it to all counties sometime within the first fiscal quarter of each new fiscal year. This schedule lists the dollars mandated by statute for the first and second tiers and includes an estimate of the dollars for the third tier based on the figures provided by the State Treasury Department and the Colorado Department of Transportation.

All HUTF disbursements to counties, but most specifically the third-tier dollars, are affected directly by the sale of fuels throughout the state. Therefore, all factors that affect the sale of motor fuels will have an affect on the amount of HUTF dollars that will eventually reach the counties.