

RTD 's comments on HB 20-151

- The lawsuit provisions are unprecedented and poorly researched. No other agency in Colorado of any kind and, as far as we are informed by knowledgeable sources, no other transit agency in the country, works under such broad and open-ended liability provisions. The testimony of our general counsel (attached) spells out the problems, but simply, the bill provides a private plaintiff a cause-of-action in state court without incorporating the carefully-considered protections of the federal ADA and Title VI regulations. It allows compensatory damages (eg mental distress), requiring that a court shall (not may) award reasonable attorneys' fees. This threat of litigation would affect nearly every decision by RTD, including moving a route in response to low service or moving a bus stop. As another example, federal regulations require that a plaintiff establish a "pattern or practice" to win a case on paratransit; it is not clear this standard is in the bill.
- The bill could establish a precedent that could lead to pressure on every other transit provider (or agency or local government) in the state. CASTA spotted this and quickly lined up to oppose (also attached). The co-sponsors are asking for "guardrails" and talking about caps on damages. We honestly just don't see why the legislature would create a special ADA and Title VI enforcement scheme when there are systems that work for all other covered agencies.
- Further, the added exposure and layering of new requirements in both the ADA and Title VI spheres will stifle RTD's ability to be responsive to individual communities within our District. As an example, as you know, last fall the board initiated and was able to pass a pilot program to explore a 6-month pilot of lower fares for the northern part of the N Line corridor. That program was directly prompted by the communities and elected officials from Thornton, Northglenn and Adams County. Had the provisions of SB 151 been in place then, that action would have been impossible to undertake; as it was, as it was, RTD was able to offer this program because of a six-month exception for pilot programs in Title VI. The threat of litigation under SB 151 will stifle RTD's ability to try anything new.
- This board is creating change. The interim GM, the first GM hired from outside the agency since 1995, started last Monday, a direct result of the determination to bring in expert fresh eyes for the critical near term (and help assure progress for the long term.) A review of governance, but it should be a reasoned examination of alternative governance structures, rather than simply adding members to the board.
- Sen. Winter and Rep. Gray are proposing a provision for a blue ribbon panel and an accountability committee. Why not let the experts do their work? Get the data, listen to the experts, then make changes recommended in lawsuit provisions, service standards and governance.