

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0876.01 Rebecca Bayetti x4348

HOUSE BILL 25-1292

HOUSE SPONSORSHIP

Boesenecker,

SENATE SPONSORSHIP

(None),

House Committees

Transportation, Housing & Local Government
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROCESS TO ALLOW A TRANSMISSION DEVELOPER**
102 **TO LOCATE HIGH VOLTAGE TRANSMISSION LINES WITHIN A**
103 **STATE HIGHWAY RIGHT-OF-WAY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill allows a transmission developer to locate high voltage transmission lines within a state highway right-of-way, according to a process developed by rule by the department of transportation (department). The department may impose surcharges on a transmission developer for its co-location of high voltage lines in a state highway

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

right-of-way, including a one-time surcharge to cover the costs of a permit for the use of the state highway right-of-way and an annual use surcharge. Upon the request of a transmission developer, the department is required to provide to the transmission developer the best available information on potential future state highway development projects that could impact the placement of a high voltage line within a state highway right-of-way. In assessing potential sites for the placement of high voltage lines, a transmission developer is required to consider development sites in the following order of priority: First, existing utility corridors; second, state highway rights-of-way; and last, new utility corridors.

The bill also requires the Colorado energy office and the Colorado electric transmission authority, through a public-private partnership and in collaboration with the department, the Colorado public utilities commission, and other state agencies, to study state highway corridors to identify potential corridors that may be suitable for high voltage transmission line development.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Colorado will need to expand electric transmission to meet its
5 clean energy and greenhouse gas reduction targets and reliability and
6 affordability obligations;

7 (b) It is the policy of the state that high voltage transmission lines
8 may be constructed or maintained within the access control lines of
9 highway, freeway, and interstate highway rights-of-way unless the
10 executive director of the Colorado department of transportation,
11 consulting with appropriate state agencies, disapproves of this co-location
12 to protect public safety, communities, and wildlife habitat, crossings, and
13 migratory corridors or to ensure the proper functioning of a state
14 highway, freeway, or interstate highway. If the installation is on an
15 interstate highway, the express approval of the federal highway
16 administration is required and the project may be required to undergo the

1 review process required by the federal "National Environmental Policy
2 Act of 1969", 42 U.S.C. sec. 4321, et seq.

3 (c) Co-locating transmission lines along highways can
4 significantly reduce impacts on wildlife and habitat compared to building
5 new lines through greenfield areas. The impacts on communities,
6 including disproportionately impacted communities, must be evaluated
7 and mitigated through the use of approaches like those outlined in the
8 Colorado electric transmission authority's 2024 "Principles of Community
9 Engagement" and the Colorado environmental justice action task force's
10 2022 "Final Report of Recommendations".

11 **SECTION 2.** In Colorado Revised Statutes, **add** 43-1-228 as
12 follows:

13 **43-1-228. High voltage lines in state highway right-of-way -**
14 **development projects and priorities - surcharge - study - rules -**
15 **definitions. (1) Definitions.** AS USED IN THIS SECTION, UNLESS THE
16 CONTEXT OTHERWISE REQUIRES:

17 (a) "HIGH VOLTAGE LINE" HAS THE SAME MEANING AS SET FORTH
18 IN SECTION 29-7.5-103 (1).

19 (b) "RULE" HAS THE SAME MEANING AS SET FORTH IN SECTION
20 24-4-102 (15).

21 (c) "STATE HIGHWAY" MEANS ANY HIGHWAY OWNED,
22 CONTROLLED, OR MAINTAINED BY THE STATE, INCLUDING FEDERAL-AID
23 PRIMARY OR SECONDARY SYSTEMS OR THE INTERSTATE SYSTEM. "STATE
24 HIGHWAY" DOES NOT INCLUDE A PUBLIC HIGHWAY OPERATED BY A PUBLIC
25 HIGHWAY AUTHORITY IN ACCORDANCE WITH THE "PUBLIC HIGHWAY
26 AUTHORITY LAW", PART 5 OF ARTICLE 4 OF THIS TITLE 43.

27 (d) "TRANSMISSION DEVELOPER" MEANS:

1 (I) A TRANSMISSION UTILITY, AS DEFINED IN SECTION 40-5-108
2 (1)(b);

3 (II) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
4 CREATED IN SECTION 40-42-103;

5 (III) A GENERATION AND TRANSMISSION COOPERATIVE OR
6 ASSOCIATION;

7 (IV) AN INDEPENDENT TRANSMISSION DEVELOPER, WHICH IS AN
8 ENTITY NOT OWNED BY A PUBLIC OR INVESTOR-OWNED UTILITY AND
9 WHICH DEVELOPS TRANSMISSION LINES AND INFRASTRUCTURE; AND

10 (V) ANY OF THE FOLLOWING ENTITIES THAT HAVE VOTED TO
11 EXEMPT THEMSELVES FROM THE "PUBLIC UTILITIES LAW", ARTICLES 1 TO
12 7 OF TITLE 40, PURSUANT TO SECTION 40-9.5-103:

13 (A) A MUNICIPALLY OWNED UTILITY;

14 (B) A POWER AUTHORITY ESTABLISHED PURSUANT TO SECTION
15 29-1-204 (1); OR

16 (C) A COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN
17 SECTION 40-9.5-102 (1).

18 (2) **State highway high voltage line co-location projects.**

19 (a) (I) UPON THE REQUEST OF A TRANSMISSION DEVELOPER, THE
20 DEPARTMENT SHALL PROVIDE TO THE TRANSMISSION DEVELOPER THE BEST
21 AVAILABLE INFORMATION ON POTENTIAL FUTURE STATE HIGHWAY
22 DEVELOPMENT PROJECTS, AS INCLUDED IN THE STATEWIDE
23 TRANSPORTATION PLAN, THAT COULD IMPACT THE PLACEMENT OF A HIGH
24 VOLTAGE LINE WITHIN A STATE HIGHWAY RIGHT-OF-WAY.

25 (II) THE DEPARTMENT SHALL PROCESS SUCH A REQUEST FOR
26 INFORMATION IN THE ORDER THAT IT WAS RECEIVED, IN ACCORDANCE
27 WITH THE DEPARTMENT'S SPECIAL USE PERMITTING PROCESS.

1 (b) (I) If the Department and a transmission developer
2 agree that an identified site may be suitable for development or
3 construction of a high voltage line within a state highway
4 right-of-way, the department shall develop a preconstruction
5 plan review schedule that includes all applicable sections of
6 the state highway utility accommodation code, 2 CCR 601-18, or
7 any successor code.

8 (II) Upon approval of the preconstruction requirements
9 outlined in a preconstruction plan, the transmission developer
10 shall provide a constructability, access, and maintenance
11 report to be utilized when transmission line co-location projects
12 in a state highway right-of-way are being planned and approved.
13 The constructability, access, and maintenance report must
14 outline mitigation strategies needed to effectively avoid or
15 address potential transmission line impacts to communities,
16 including disproportionately impacted communities, and to
17 habitats, wildlife, and wildlife crossings.

18 (III) A constructability, access, and maintenance report
19 must be approved by the department before the department
20 issues a permit for the use of a state highway right-of-way.

21 (c) All work performed under a contract for the location
22 of a high voltage line within a state highway right-of-way, as
23 allowed pursuant to this section, that is an energy sector public
24 works project, as defined in section 24-92-303 (5)(a), must comply
25 with the requirements of section 24-92-115 (7) and part 2 of
26 article 92 of title 24. Any contractor hired to perform such
27 work shall comply with the labor standards described in

1 SECTION 40-42-107.

2 (3) **High voltage line or facility site priorities and evaluation by**
3 **public utilities commission.** (a) (I) IN THE CONSTRUCTION OR
4 DEVELOPMENT OF HIGH VOLTAGE LINES OR FACILITIES NECESSARY FOR
5 HIGH VOLTAGE TRANSMISSION, A TRANSMISSION DEVELOPER SHALL
6 CONSIDER DEVELOPMENT SITES IN THE FOLLOWING ORDER OF PRIORITY:

7 (A) FIRST, EXISTING UTILITY CORRIDORS, WHERE ADDING NEW
8 LINES OR MAKING IMPROVEMENTS TO EXISTING LINES CAN ACHIEVE
9 EXPANDED ELECTRIC CAPACITY AT THE LOWEST POSSIBLE COST;

10 (B) SECOND, STATE HIGHWAY RIGHTS-OF-WAY; AND

11 (C) LAST, NEW UTILITY CORRIDORS.

12 (II) IN ASSESSING POTENTIAL HIGH VOLTAGE TRANSMISSION LINE
13 DEVELOPMENT SITES IN ACCORDANCE WITH THIS SUBSECTION (3)(a), A
14 TRANSMISSION DEVELOPER SHALL EVALUATE THE ECONOMIC IMPACTS,
15 ENGINEERING CONSIDERATIONS, AND RELIABILITY OF THE ELECTRIC
16 SYSTEM.

17 (b) (I) IF REQUIRED TO FILE AN APPLICATION FOR A CERTIFICATE OF
18 PUBLIC CONVENIENCE AND NECESSITY WITH THE PUBLIC UTILITIES
19 COMMISSION CREATED IN SECTION 40-2-101, A TRANSMISSION DEVELOPER
20 SHALL DEMONSTRATE THAT IT HAS CONSIDERED POTENTIAL SITES FOR
21 HIGH VOLTAGE TRANSMISSION LINE DEVELOPMENTS IN THE ORDER OF
22 PRIORITY LISTED IN SUBSECTION (3)(a) OF THIS SECTION. THE
23 TRANSMISSION DEVELOPER SHALL INCLUDE ITS ASSESSMENT OF POTENTIAL
24 SITES AND THE UNDERLYING DATA USED IN THE ASSESSMENT AS PART OF
25 ITS APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND
26 NECESSITY.

27 (II) IN EVALUATING AN APPLICATION FOR A CERTIFICATE OF PUBLIC

1 CONVENIENCE AND NECESSITY FROM A TRANSMISSION DEVELOPER, THE
2 PUBLIC UTILITIES COMMISSION SHALL DETERMINE WHETHER THE
3 TRANSMISSION DEVELOPER HAS PROVIDED THE INFORMATION REQUIRED
4 BY SUBSECTION (3)(b)(I) OF THIS SECTION.

5 (4) **Surcharges for right-of-way access for transmission**
6 **developer.** (a) THE DEPARTMENT MAY IMPOSE SURCHARGES ON A
7 TRANSMISSION DEVELOPER FOR ITS CO-LOCATION OF HIGH VOLTAGE LINES
8 IN A STATE HIGHWAY RIGHT-OF-WAY, INCLUDING A ONE-TIME SURCHARGE
9 TO COVER THE COSTS OF A PERMIT FOR THE USE OF THE STATE HIGHWAY
10 RIGHT-OF-WAY AND AN ANNUAL USE SURCHARGE FOR THE USE OF THE
11 STATE HIGHWAY RIGHT-OF-WAY.

12 (b) (I) THE DEPARTMENT SHALL ESTABLISH THE SURCHARGES BY
13 RULE PURSUANT TO SUBSECTION (6) OF THIS SECTION.

14 (II) THE SURCHARGES FOR A TRANSMISSION DEVELOPER'S USE OF
15 A STATE HIGHWAY RIGHT-OF-WAY IS AN ALTERNATIVE METHOD TO
16 COMPENSATING THE STATE THROUGH IN-KIND INFRASTRUCTURE
17 EXCHANGE IN A PUBLIC-PRIVATE INITIATIVE, AS DEFINED IN SECTION
18 43-1-1201 (3). THE ENTITY REQUESTING ACCESS TO THE RIGHT-OF-WAY
19 HAS THE DISCRETION TO CHOOSE WHICH PROCESS IT WILL USE TO
20 COMPENSATE THE STATE FOR ITS USE OF THE RIGHT-OF-WAY.

21 (5) **State highway corridor study - report.** (a) THROUGH A
22 PUBLIC-PRIVATE PARTNERSHIP, WHERE FUNDING IS PROVIDED BY PRIVATE
23 PARTNERS, THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
24 CREATED IN SECTION 40-42-103, IN COLLABORATION WITH THE
25 DEPARTMENT, THE COLORADO ENERGY OFFICE CREATED IN SECTION
26 24-38.5-101, THE COLORADO PUBLIC UTILITIES COMMISSION CREATED IN
27 SECTION 40-2-101, AND OTHER STATE AGENCIES, INCLUDING THE DIVISION

1 OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES
2 CREATED IN SECTION 33-9-104, SHALL STUDY STATE HIGHWAY CORRIDORS
3 TO IDENTIFY POTENTIAL CORRIDORS THAT MAY BE SUITABLE FOR HIGH
4 VOLTAGE TRANSMISSION LINE DEVELOPMENT. THE STUDY MUST IDENTIFY
5 ALL PRIVATE ENTITIES PROVIDING FUNDING.

6 (b) THE COLORADO ENERGY OFFICE AND THE COLORADO ELECTRIC
7 TRANSMISSION AUTHORITY SHALL COMPLETE THE STUDY REQUIRED BY
8 THIS SUBSECTION (5) NO LATER THAN EIGHTEEN MONTHS AFTER THE DATE
9 THAT FUNDING IS SECURED FROM PRIVATE PARTNERS.

10 (c) THE COLORADO ENERGY OFFICE AND THE COLORADO ELECTRIC
11 TRANSMISSION AUTHORITY SHALL PUBLISH A REPORT ON THE FINDINGS OF
12 THE STUDY REQUIRED BY THIS SUBSECTION (5) ON THEIR WEBSITES AND
13 SHALL SHARE THE REPORT WITH THE DEPARTMENT, THE COLORADO PUBLIC
14 UTILITIES COMMISSION, THE DIVISION OF PARKS AND WILDLIFE IN THE
15 DEPARTMENT OF NATURAL RESOURCES CREATED IN SECTION 33-9-104,
16 AND, AS APPROPRIATE, OTHER STATE AGENCIES.

17 (6) **Rules.** (a) THE DEPARTMENT SHALL UPDATE ITS RULES
18 CONCERNING ACCESS TO STATE HIGHWAY RIGHTS-OF-WAY TO
19 ACCOMMODATE HIGH VOLTAGE LINES PURSUANT TO THE STATE HIGHWAY
20 UTILITY ACCOMMODATION CODE, 2 CCR 601-18, OR ANY SUCCESSOR
21 CODE.

22 (b) THE EXECUTIVE DIRECTOR MAY ADOPT RULES AS NECESSARY
23 TO IMPLEMENT THIS SECTION. THE RULES MUST:

24 (I) CLARIFY THAT LONGITUDINAL HIGH VOLTAGE LINES MAY BE
25 PERMITTED IN STATE HIGHWAY RIGHTS-OF-WAY IF IDENTIFIED CRITERIA
26 ARE MET;

27 (II) CREATE A PROCESS THROUGH WHICH A TRANSMISSION

1 DEVELOPER MUST SUBMIT A REQUEST TO THE DEPARTMENT FOR A PERMIT
2 FOR THE USE OF A STATE HIGHWAY RIGHT-OF-WAY TO CONSTRUCT A HIGH
3 VOLTAGE LINE;

4 (III) ESTABLISH THE PROCESS FOR THE DENIAL OF A PERMIT
5 REQUEST SUBMITTED BY A TRANSMISSION DEVELOPER FOR A HIGH
6 VOLTAGE LINE IF THE PROPOSED PROJECT PRESENTS A RISK TO PUBLIC
7 SAFETY OR PREVENTS THE PROPER FUNCTIONING OF THE STATE HIGHWAY;
8 AND

9 (IV) SET THE SURCHARGES AS DESCRIBED IN SUBSECTION (4) OF
10 THIS SECTION.

11 (c) THE DEPARTMENT SHALL UPDATE ITS RULES AS REQUIRED BY
12 SUBSECTION (6)(a) OF THIS SECTION AND ADOPT THE RULES REQUIRED BY
13 SUBSECTION (6)(b) OF THIS SECTION NO LATER THAN JANUARY 1, 2027.

14 **SECTION 3. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2026 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.