

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 11-0434.01 Thomas Morris

SENATE BILL 11-045

SENATE SPONSORSHIP

Johnston,

HOUSE SPONSORSHIP

Levy,

Senate Committees

Agriculture, Natural Resources, and Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING A STREAMLINED PROCESS FOR SECURING**
102 **GOVERNMENTAL APPROVAL FOR THE SITING OF ELECTRIC**
103 **TRANSMISSION FACILITIES, AND, IN CONNECTION THEREWITH,**
104 **CREATING A TASK FORCE.**

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://www.leg.state.co.us/billsummaries>.)

Under current law, siting authority for an electric transmission facility must be obtained from each county and municipality in which the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

facility is located. Under the bill, if an electric utility's proposed electric transmission facility is specifically listed in a current statewide electric transmission plan adopted pursuant to rules promulgated by the public utilities commission (PUC), siting authority for the facility is acquired by getting approval of the PUC and a newly created siting commission, which consists of 3 utility regulators, 3 representatives of local governments affected by the particular application, and one representative of the public, all of whom are appointed by the governor. Both the PUC and the siting commission must act within 180 days after the filing of a complete application or the application is deemed to have been approved. Appeals of the PUC's and the siting commission's decisions are to the court of appeals.

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

2 **SECTION 1.** Article 4 of title 40, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **40-4-119. Siting of electric transmission facilities - task force**
5 **- repeal. (1) Legislative declaration. THE GENERAL ASSEMBLY FINDS,**
6 **DETERMINES, AND DECLARES THAT THE DEVELOPMENT OF NEW ELECTRIC**
7 **TRANSMISSION FACILITIES IS NECESSARY TO PROMOTE THE DEVELOPMENT**
8 **OF ADDITIONAL CLEAN AND RENEWABLE ELECTRIC GENERATION**
9 **RESOURCES, COLORADO'S ENERGY SECURITY, AND THE STATE'S**
10 **LONG-TERM ECONOMIC GROWTH. THE SITING AND PERMITTING OF**
11 **ELECTRIC TRANSMISSION FACILITIES IS CURRENTLY SUBJECT TO VARIOUS**
12 **STATE AND LOCAL GOVERNMENT REQUIREMENTS. BECAUSE ELECTRIC**
13 **TRANSMISSION FACILITIES OFTEN TRAVERSE MULTIPLE JURISDICTIONS,**
14 **COMPLIANCE WITH MULTIPLE REQUIREMENTS CREATES THE POTENTIAL FOR**
15 **PERMITTING DELAYS OR INCONSISTENT DECISIONS. IT IS, THEREFORE, IN**
16 **THE STATE'S INTEREST TO CONSIDER OPPORTUNITIES TO IMPROVE EXISTING**
17 **SITING AND PERMITTING PROCESSES APPLICABLE TO ELECTRIC**
18 **TRANSMISSION FACILITIES, INCLUDING THE POSSIBLE ESTABLISHMENT OF**
19 **A SINGLE, STATEWIDE SITING AND PERMITTING PROCESS FOR SUCH**

1 FACILITIES.

2 (2) Task force and report. (a) THERE IS HEREBY CREATED THE
3 TASK FORCE ON STATEWIDE TRANSMISSION SITING AND PERMITTING, ALSO
4 REFERRED TO IN THIS SECTION AS THE "TASK FORCE". THE TASK FORCE
5 SHALL MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE GENERAL
6 ASSEMBLY REGARDING COLORADO'S EXISTING STATUTORY AND
7 REGULATORY FRAMEWORK APPLICABLE TO THE SITING AND PERMITTING
8 OF ELECTRIC TRANSMISSION FACILITIES AS WELL AS OPPORTUNITIES TO
9 IMPROVE THAT FRAMEWORK. THE TASK FORCE SHALL TAKE TESTIMONY
10 ON THE TOPICS LISTED IN SUBSECTION (4) OF THIS SECTION AND SHALL
11 REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON SUCH
12 TESTIMONY AND RECOMMENDATIONS NO LATER THAN DECEMBER 1, 2011.
13 EACH RECOMMENDATION MADE BY THE TASK FORCE REQUIRES THE
14 AFFIRMATIVE CONSENT OF A MAJORITY OF ITS MEMBERS AND MAY BE
15 ACCOMPANIED BY A MINORITY REPORT, AS APPROPRIATE.

16 (b) THE TASK FORCE SHALL HOLD AT LEAST FOUR MEETINGS,
17 WHICH SHALL BE OPEN TO THE PUBLIC. THE TASK FORCE SHALL ELECT A
18 CHAIR AND A VICE-CHAIR FROM ITS MEMBERS AT ITS FIRST MEETING. THE
19 TASK FORCE SHALL SOLICIT AND RECEIVE COMMENTS FROM MEMBERS OF
20 THE PUBLIC, WHICH MUST INCLUDE AN OPPORTUNITY FOR COLORADO
21 RESIDENTS TO SUBMIT WRITTEN COMMENTS TO THE TASK FORCE. THE
22 TASK FORCE MAY DETERMINE THE MANNER IN WHICH SUCH COMMENTS
23 ARE RECEIVED.

24 (c) THE TASK FORCE SHALL CONSIDER AND GIVE WEIGHT TO PUBLIC
25 COMMENTS RECEIVED DURING THE PUBLIC HEARING PROCESS, AS WELL AS
26 WRITTEN COMMENTS FROM AFFECTED COUNTIES, CITIES, ELECTRIC
27 UTILITIES, OTHER ELECTRIC POWER PROVIDERS, CUSTOMERS,

1 ENVIRONMENTAL GROUPS, AND OTHER INTERESTED STAKEHOLDERS.
2 (3) Membership. (a) THE TASK FORCE CONSISTS OF SIXTEEN
3 MEMBERS AS FOLLOWS:
4 (I) THE DIRECTOR OF THE COMMISSION, OR HIS OR HER DESIGNEE,
5 WHO SHALL CONVENE THE TASK FORCE AND WHO IS AUTHORIZED TO
6 CONTRACT WITH A MEDIATOR OR OTHER THIRD PARTY TO FACILITATE
7 ACCOMPLISHMENT OF THE TASK FORCE'S DUTIES;
8 (II) EIGHT MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:
9 (A) ONE MEMBER REPRESENTING COOPERATIVE ELECTRIC
10 ASSOCIATIONS THAT DISTRIBUTE ELECTRICITY;
11 (B) ONE MEMBER REPRESENTING COOPERATIVE ELECTRIC
12 ASSOCIATIONS THAT GENERATE AND TRANSMIT ELECTRICITY;
13 (C) TWO MEMBERS REPRESENTING INVESTOR-OWNED ELECTRIC
14 UTILITIES;
15 (D) TWO MEMBERS REPRESENTING MUNICIPALLY OWNED ELECTRIC
16 UTILITIES;
17 (E) ONE MEMBER REPRESENTING RENEWABLE ENERGY ELECTRIC
18 GENERATION INTERESTS; AND
19 (F) ONE MEMBER REPRESENTING LARGE COMMERCIAL CONSUMERS
20 OF ELECTRICITY;
21 (III) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF
22 REPRESENTATIVES, WHO MUST NOT BE AFFILIATED WITH ANY OF THE
23 GROUPS REPRESENTED BY OTHER MEMBERS OF THE TASK FORCE;
24 (IV) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE,
25 WHO MUST NOT BE AFFILIATED WITH ANY OF THE GROUPS REPRESENTED BY
26 OTHER MEMBERS OF THE TASK FORCE;
27 (V) TWO MEMBERS REPRESENTING THE INTERESTS OF COLORADO

1 MUNICIPALITIES, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE
2 COLORADO MUNICIPAL LEAGUE OR ITS SUCCESSOR ORGANIZATION;

3 (VI) TWO MEMBERS REPRESENTING THE INTERESTS OF COLORADO
4 COUNTIES, APPOINTED BY THE EXECUTIVE DIRECTOR OF COLORADO
5 COUNTIES, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION; AND

6 (VII) THE DIRECTOR OF THE GOVERNOR'S ENERGY OFFICE CREATED
7 IN SECTION 24-38.5-101, C.R.S., OR HIS OR HER DESIGNEE.

8 (b) THE APPOINTING AUTHORITIES SHALL MAKE THEIR
9 APPOINTMENTS WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS
10 SECTION.

11 (c) THE OFFICIAL WHO APPOINTED A MEMBER WHOSE ABSENCE
12 RESULTS IN A VACANCY SHALL FILL THE VACANCY BY APPOINTMENT.

13 (4) **Scope of inquiry.** AT A MINIMUM, THE TASK FORCE SHALL
14 TAKE COMMENTS ON THE FOLLOWING TOPICS:

15 (a) AN INVENTORY AND EVALUATION OF COLORADO'S CURRENT
16 SITING AND PERMITTING FRAMEWORK FOR ELECTRIC TRANSMISSION
17 FACILITIES, INCLUDING ITS BENEFITS AND SHORTCOMINGS;

18 (b) RESEARCH INTO EXAMPLES OF HOW OTHER STATES APPROACH
19 SITING AND PERMITTING OF ELECTRIC TRANSMISSION FACILITIES;

20 (c) IDENTIFICATION OF POSSIBLE MODELS FOR IMPROVING
21 COLORADO'S EXISTING SITING AND PERMITTING PROCESSES APPLICABLE TO
22 ELECTRIC TRANSMISSION FACILITIES;

23 (d) RECOMMENDED ACTIONS TO STREAMLINE SITING AND
24 PERMITTING PROCESSES APPLICABLE TO ELECTRIC TRANSMISSION
25 FACILITIES, INCLUDING A BALANCING OF ENVIRONMENTAL, LAND USE, AND
26 COMMUNITY EFFECTS WITH TRANSMISSION PROJECT COSTS AND SCHEDULE
27 RISKS;

1 (e) AN EXAMINATION OF THE ADVANTAGES AND DISADVANTAGES
2 OF A STATEWIDE TRANSMISSION SITING AND PERMITTING FRAMEWORK FOR
3 ELECTRIC TRANSMISSION FACILITIES; AND

4 (f) AN EXAMINATION OF THE POLITICAL ACCEPTABILITY OF, AND
5 POTENTIAL STRATEGIES FOR, CREATING A STATE-LEVEL SITING ENTITY.

6 (5) Funding. (a) THE COMMISSION MAY ACCEPT PRIVATE GIFTS,
7 GRANTS, AND DONATIONS FOR THE PURPOSE OF PROVIDING SUPPORT TO
8 THE TASK FORCE TO PERFORM ITS RESPONSIBILITIES. THE COMMISSION
9 SHALL TRANSFER ALL SUCH GIFTS, GRANTS, AND DONATIONS TO THE STATE
10 TREASURER, WHO SHALL CREDIT THEM TO A SEPARATE ACCOUNT, WHICH
11 IS HEREBY CREATED, IN THE PUBLIC UTILITIES COMMISSION FIXED UTILITY
12 FUND CREATED IN SECTION 40-2-114.

13 (b) THE COMMISSION IS NOT REQUIRED TO SOLICIT GIFTS, GRANTS,
14 OR DONATIONS FROM ANY SOURCE FOR THE PURPOSES OF THE TASK FORCE.
15 NO GENERAL FUND MONEYS SHALL BE USED TO PAY FOR ANY EXPENSES OF
16 THE TASK FORCE.

17 (c) IF, BY JUNE 1, 2011, MONEYS IN THE ACCOUNT HAVE NOT
18 REACHED AN AMOUNT SUFFICIENT TO PAY THE EXPENSES OF THE TASK
19 FORCE:

20 (I) THE TASK FORCE SHALL NOT MEET OR UNDERTAKE ANY OTHER
21 DUTIES PURSUANT TO THIS SECTION;

22 (II) THE COMMISSION SHALL RETURN TO EACH GRANTOR OR DONOR
23 AN AMOUNT EQUAL TO SUCH GRANTOR'S OR DONOR'S CONTRIBUTION; AND

24 (III) THE STATE TREASURER SHALL TRANSFER THE INTEREST, IF
25 ANY, EARNED FROM THE INVESTMENT OF MONEYS IN THE ACCOUNT TO THE
26 GENERAL FUND.

27 (6) Repeal. THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31,

1 2011.

2 **SECTION 2. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.