A BILL FOR AN ACT

CONCERNING EQUIVALENT AUTHORITY FOR PIPELINE COMPANIES TO ACQUIRE 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://www.leg.state.co.us/billsummaries.)

Article 5 of title 38, Colorado Revised Statutes, governs rights-of-way for transmission companies and grants the right of eminent domain to any domestic or foreign electric light power, gas, or pipeline company authorized to do business in Colorado for the purpose of obtaining rights-of-way for wires, pipes, regulator stations, substations,
and systems needed to conduct its business. The bill specifies that, subject to state constitutional and statutory provisions that require payment of just compensation and otherwise govern the exercise of the power of eminent domain, companies that operate pipelines that convey oil, gasoline, or other petroleum or hydrocarbon products are pipeline companies granted the right of eminent domain. A pipeline company must also comply with all applicable laws and regulations including, but not limited to, federal pipeline safety regulations.

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

SECTION 1. In Colorado Revised Statutes, amend 38-5-101 as follows:

38-5-101. Use of public highways - definitions. Any domestic or foreign electric light power company, gas company, or pipeline company that is authorized to do business under the laws of this state or any city or town owning electric power producing or distribution facilities shall have the right to construct, maintain, and operate pipelines or lines of electric light, wire, or power along, across, upon, and under any public highway in this state, subject to the provisions of this article and all other applicable laws and regulations not inconsistent with this article, and subject to all applicable federal pipeline safety regulations. Such pipelines or lines of electric light, wire, or power shall be so constructed and maintained so as not to obstruct or hinder the usual travel on such highway. "Pipeline company" includes a company lawfully formed under the laws of this state or of any other state that is permitted by its organizational documents to construct a pipeline for gas, oil, or other petroleum or hydrocarbon products, and "person" has the same meaning as set forth in section 2-4-401 (8), C.R.S.

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SECTION 2. In Colorado Revised Statutes, amend 38-5-102 as follows:

38-5-102. Right-of-way across state land. Any domestic or foreign electric light power company, gas company, or pipeline company authorized to do business under the laws of this state, or any city or town owning electric power producing or distribution facilities shall have the right to construct, maintain, and operate pipelines or lines of electric light, wire, or power or pipeline and obtain permanent right-of-way therefor over, upon, under, and across all public lands owned by or under the control of the state upon the payment of such compensation and upon compliance with such reasonable conditions as may be required by the state board of land commissioners MAY REQUIRE.

SECTION 3. In Colorado Revised Statutes, amend 38-5-103 as follows:

38-5-103. Power of companies to contract. Such any foreign or domestic electric light power company, gas company, or pipeline company, or such any city or town shall have power THE RIGHT to contract with any person or corporation the owner of lands or any franchise, easement, or interest therein IN LANDS over or under which the pipeline OR THE line of electric light, wire, OR power or pipeline is proposed to be laid or created for the right-of-way for the construction, maintenance, and operation of its electric light wires, pipes, poles, regulator stations, substations, or other property and for the erection, maintenance, occupation, and operation of offices at suitable distances for the public accommodation.

SECTION 4. In Colorado Revised Statutes, amend 38-5-104 as follows:
38-5-104. Right-of-way across private lands. (1) Such any telegraph company, telephone company, electric light power company, gas company, or pipeline company, or such any city or town shall be entitled to the right-of-way over or under the land, property, privileges, rights-of-way, and easements of other persons and corporations and to the right to erect its poles, wires, pipes, regulator stations, substations, systems, and offices upon giving notice and making just compensation therefor in the manner provided by law. The rights granted by this section and section 38-5-105 to such electric light power companies, gas companies, or pipeline companies, or to such cities and towns shall that own electric power producing or distribution facilities do not extend to the taking of any portion of the right-of-way of a railroad company, except to the extent of acquiring any necessary easement to cross the same or to serve such the railroad company with electric light, power, or gas service. The rights granted by this section and section 38-5-105 to telegraph or telephone companies shall do not extend to the taking of any portion of the right-of-way of a railroad company, except to the extent of acquiring any easement which that does not materially interfere with the existing use by the railroad company, or except to the extent of acquiring any necessary easement to cross the same or to serve such the railroad company with telegraph or telephone service.

(2) If any right-of-way is taken by such a telegraph company, telephone company, electric light power company, gas or company, pipeline company, city, or town takes right-of-way over any portion of the right-of-way of a railroad company, the taking party shall pay the entire cost of constructing its facilities along such the right-of-way,
including any expenses incurred by the railroad for inspection and
flagging as reasonably necessary to avoid interference with safe operation
of the railroad. The taking party shall also bear the entire cost, including
the cost of such ANY inspection and flagging, of removing, relocating,
altering, or protecting any facility installed on THE right-of-way so taken
if, at any time, such THE removal, relocation, alteration, or protection
becomes reasonably necessary to avoid interference with the railroad
company's ability to use its original right-of-way to operate its railroad
efficiently and safely and to efficiently and safely serve existing, new, or
potential railroad customers. The taking party shall indemnify the railroad
company from all losses and expenses resulting from the negligence of
the taking party AND its successors or contractors in connection with or
related to such THE right-of-way. The A taking party shall have HAS no
claim against the railroad for any loss resulting from damage to the taking
party's telegraph or telephone facilities resulting from any unforeseen
emergencies or acts of God such as derailment, explosions, collisions, or
activities reasonably performed in repairing damages caused by such
occurrences.

SECTION 5. In Colorado Revised Statutes, amend 38-5-105 as
follows:

38-5-105. Companies, cities, and towns have eminent domain
right. Such A telegraph COMPANY, telephone COMPANY, electric light
power COMPANY, gas COMPANY, or pipeline company, or such A city or
town is vested with the power of eminent domain and authorized to
proceed to obtain rights-of-way for poles, wires, pipes, regulator stations,
substations, and systems for such purposes by means thereof. Whenever
ANY such company or such city or town is unable to secure by deed,
contract, or agreement such rights-of-way for such purposes over, under, across, and upon the lands, property, privileges, rights-of-way, or easements of persons or corporations, it shall be lawful for such telegraph, telephone, electric light power, gas, or pipeline company or any company, city, or town owning electric power producing or distribution facilities to acquire such title in the manner now provided by law for the exercise of the right of eminent domain and in the manner as set forth in this article. Such company, city, or town exercising the right of eminent domain pursuant to this article shall provide just compensation as required by section 15 of article II of the State constitution and shall abide by all other applicable statutory requirements not inconsistent with this article.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.