

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 21-0499.01 Duane Gall x4335

SENATE BILL 21-072

SENATE SPONSORSHIP

Hansen and Coram, Bridges, Jaquez Lewis, Pettersen, Priola, Rankin, Simpson, Winter

HOUSE SPONSORSHIP

Valdez A. and Catlin,

Senate Committees

Transportation & Energy
Appropriations

House Committees

Energy & Environment
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE EXPANSION OF ELECTRIC TRANSMISSION FACILITIES**
102 **TO ENABLE COLORADO TO MEET ITS CLEAN ENERGY GOALS,**
103 **AND, IN CONNECTION THEREWITH, CREATING THE COLORADO**
104 **ELECTRIC TRANSMISSION AUTHORITY, REQUIRING**
105 **TRANSMISSION UTILITIES TO JOIN ORGANIZED WHOLESALE**
106 **MARKETS, AND ALLOWING ADDITIONAL CLASSES OF**
107 **TRANSMISSION UTILITIES TO OBTAIN REVENUE THROUGH THE**
108 **COLOCATION OF BROADBAND FACILITIES WITHIN THEIR**
109 **EXISTING RIGHTS-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

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

SENATE
3rd Reading Unamended
April 14, 2021

SENATE
Amended 2nd Reading
April 13, 2021

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill directs the public utilities commission (PUC) to approve utilities' applications to build new transmission facilities if the PUC, in its discretion, finds that the new facilities would assist the utilities in meeting the state's clean energy goals established in 2019. In constructing or expanding transmission facilities, a utility must use its own employees, engage a contractor whose employees have access to federally approved apprenticeship programs, or both. Section 1 also requires the PUC to consider the ability of the proposed facilities to support future expansion as needed to enable the utility to participate in a regional transmission organization (RTO). An application for construction or expansion of transmission facilities is deemed approved if the PUC does not deny it within 180 days after the application is complete and public notice has been given.

Sections 4 and 5 create the Colorado electric transmission authority (CETA) as an independent special purpose authority, and section 4 specifies the composition and manner of appointment of the board of directors that governs the authority. CETA is authorized to select a qualified transmission operator to finance, plan, acquire, maintain, and operate eligible electric transmission and interconnected storage facilities (eligible facilities).

Under **sections 4 and 6**, CETA is granted various powers necessary to accomplish its purposes, including the power to:

- Issue revenue bonds;
- Identify and establish intrastate electric transmission corridors;
- Coordinate with other entities to establish interstate electric transmission corridors;
- Exercise the power of eminent domain to acquire eligible facilities; and
- Collect payments of reasonable rates, fees, interest, or other charges from persons using eligible facilities.

CETA is generally subject to state open records and open meetings requirements, but proprietary confidential information that it holds, including power purchase agreements, costs of production, costs of transmission, transmission service agreements, credit reviews, detailed power models, and financing statements, is not subject to inspection. **Section 8** authorizes payment of CETA's administrative expenses, not to exceed \$500,000 annually, from an existing cash fund administered by the PUC.

Section 2 sets out deadlines and conditions under which an electric utility that owns and controls transmission facilities is required to join an RTO. The commission may delay or waive this requirement for a utility

that is unable, despite its best efforts, to find a viable and available RTO to join or if the commission finds, in the course of its ongoing study of RTOs under Senate Bill 19-236, that requiring the utility to join an RTO would not be in the public interest.

Under current law, a cooperative electric association with an electric easement on real property is authorized to install or to allow a commercial broadband supplier to install broadband facilities on the real property, subject to notice and procedural requirements. **Section 3** expands the authorization to also apply to either of the following entities with an electric easement:

- A generation and transmission cooperative electric association; or
- The federal western area power administration within the United States department of energy.

Section 7 specifies that when a right-of-way is taken for an interstate electric transmission line, the court shall evaluate public purpose in light of the transmission system as a whole, including public use and benefits occurring both within Colorado and at a regional level.

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

2 **SECTION 1. In Colorado Revised Statutes, 40-2-126, amend (3)**
3 **introductory portion and (3)(a); add (5); and recreate and reenact, with**
4 **amendments, (4) as follows:**

5 **40-2-126. Transmission facilities - biennial review - energy**
6 **resource zones - definition - plans - approval - cost recovery. (3) The**
7 **commission shall MAY, CONSISTENT WITH ITS AUTHORITY, approve a**
8 **utility's application for a certificate of public convenience and necessity**
9 **for the COST-EFFECTIVE construction or expansion of transmission**
10 **facilities pursuant to paragraph (b) of subsection (2) SUBSECTION (2)(b)**
11 **of this section if the commission finds that:**

12 **(a) The construction or expansion:**

13 **(I) Is required to:**

14 **(A) Ensure the reliable delivery of electricity to Colorado**
15 **consumers, or to EITHER ALONE OR IN COMBINATION WITH THE**

1 CONSUMERS OF OTHER STATES SERVED BY AN ORGANIZED WHOLESALE
2 MARKET AS DEFINED IN SECTION 40-5-108 (1)(a); OR

3 (B) Enable the utility to meet the renewable energy standards set
4 forth in section 40-2-124 OR ACHIEVE EMISSION REDUCTIONS UNDER
5 SECTION 25-7-102 OR 40-2-125.5;

6 (II) CAN REASONABLY ACCOMMODATE FUTURE EXPANSION,
7 THROUGH THE ADDITION OF MORE LINES OR GREATER CAPACITY, AS MAY
8 BE REQUIRED TO SUPPORT THE UTILITY'S PARTICIPATION IN AN ORGANIZED
9 WHOLESALE MARKET AS DEFINED IN SECTION 40-5-108 (1)(a); and

10 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN
11 RESPONSE TO ANY APPLICATION FOR A CERTIFICATE OF PUBLIC
12 CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OR EXPANSION OF
13 TRANSMISSION FACILITIES THAT IS SUBMITTED TO THE COMMISSION
14 PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION, THE COMMISSION
15 SHALL ISSUE A FINAL ORDER WITHIN TWO HUNDRED FORTY DAYS AFTER
16 THE APPLICATION IS DEEMED COMPLETE AND PUBLIC NOTICE OF THE
17 APPLICATION IS GIVEN; EXCEPT THAT THE APPLICANT MAY WAIVE THIS
18 TWO-HUNDRED-FORTY-DAY DEADLINE. ABSENT SUCH WAIVER, IF THE
19 COMMISSION DOES NOT ISSUE A FINAL ORDER WITHIN THAT PERIOD, THE
20 APPLICATION IS DEEMED APPROVED.

21 (5) IN ANY CONSTRUCTION OR EXPANSION APPROVED PURSUANT
22 TO THIS SECTION, THE UTILITY SHALL USE ITS OWN EMPLOYEES OR
23 QUALIFIED CONTRACTORS, OR BOTH, BUT SHALL NOT USE A CONTRACTOR
24 UNLESS THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN
25 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
26 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE
27 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT THAT

1 THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

2 (a) THE DESIGN, PLANNING, OR ENGINEERING OF THE
3 TRANSMISSION FACILITIES;

4 (b) MANAGEMENT FUNCTIONS TO OPERATE THE TRANSMISSION
5 FACILITIES; OR

6 (c) ANY WORK PERFORMED IN RESPONSE TO A WARRANTY CLAIM.

7 SECTION 2. In Colorado Revised Statutes, add 40-5-108 as
8 follows:

9 **40-5-108. Electric utility participation in organized wholesale**
10 **markets required - conditions - authority of commission - definitions.**

11 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:

13 (a) (I) "ORGANIZED WHOLESALE MARKET" OR "OWM" MEANS AN
14 ENTITY ESTABLISHED FOR THE PURPOSE OF COORDINATING AND
15 EFFICIENTLY MANAGING THE DISPATCH AND TRANSMISSION OF
16 ELECTRICITY AMONG PUBLIC UTILITIES ON A MULTISTATE OR REGIONAL
17 BASIS AND THAT:

18 (A) IS APPROVED BY THE FEDERAL ENERGY REGULATORY
19 COMMISSION;

20 (B) EFFECTS SEPARATE CONTROL OF TRANSMISSION FACILITIES
21 FROM CONTROL OF GENERATION FACILITIES;

22 (C) IMPLEMENTS, TO THE EXTENT REASONABLY POSSIBLE, POLICIES
23 AND PROCEDURES DESIGNED TO MINIMIZE PANCAKED TRANSMISSION
24 RATES WITHIN COLORADO;

25 (D) IMPROVES, TO THE EXTENT REASONABLY POSSIBLE, SERVICE
26 RELIABILITY WITHIN COLORADO;

27 (E) IS OF SUFFICIENT SCOPE OR OTHERWISE OPERATES TO

1 SUBSTANTIALLY INCREASE ECONOMICAL SUPPLY OPTIONS FOR
2 CUSTOMERS;

3 (F) HAS A STRUCTURE OF GOVERNANCE OR CONTROL THAT IS
4 INDEPENDENT OF THE OWNERSHIP AND OPERATION OF THE TRANSMISSION
5 FACILITIES, AND NO MEMBER OF ITS BOARD OF DIRECTORS HAS AN
6 AFFILIATION WITH A USER OR WITH AN AFFILIATE OF A USER DURING THE
7 MEMBER'S TENURE ON THE BOARD SO AS TO UNDULY AFFECT THE OWM'S
8 PERFORMANCE. AS USED IN THIS SUBSECTION (1)(a)(I)(F), "USER" MEANS
9 ANY ENTITY OR AFFILIATE OF THAT ENTITY THAT BUYS OR SELLS ELECTRIC
10 ENERGY IN THE OWM'S REGION OR IN A NEIGHBORING REGION.

11 (G) OPERATES UNDER POLICIES THAT PROMOTE POSITIVE
12 PERFORMANCE DESIGNED TO SATISFY THE ELECTRICITY REQUIREMENTS OF
13 CUSTOMERS;

14 (H) HAS AN INCLUSIVE AND OPEN STAKEHOLDER PROCESS THAT
15 DOES NOT PLACE UNREASONABLE BURDENS ON, OR PRECLUDE
16 MEANINGFUL PARTICIPATION BY, ANY STAKEHOLDER GROUP;

17 (I) INCLUDES ALL TRANSMISSION AND GENERATION RESOURCES
18 APPROVED, ACQUIRED, OR CONSTRUCTED AND IN SERVICE BY 2030 TO
19 MEET THE EMISSION REDUCTION REQUIREMENTS OF SECTIONS 25-7-102
20 AND 40-2-125.5; AND

21 (J) CONSISTENT WITH AND IN SUPPORT OF FERC POLICIES AND
22 ORDERS AND LOCAL PLANNING BY COLORADO PUBLIC UTILITIES, IS
23 CAPABLE OF: PLANNING FOR IMPROVED EFFICIENCY OF USE, FUTURE
24 EXPANSION, AND CONSIDERATION OF ALL OPTIONS FOR MEETING
25 TRANSMISSION NEEDS; PROVIDING EFFECTIVE COST ALLOCATIONS THAT
26 REFLECT BENEFITS OF TRANSMISSION INVESTMENTS; MAINTAINING
27 REAL-TIME RELIABILITY OF THE ELECTRIC TRANSMISSION SYSTEM;

1 ENSURING COMPARABLE AND NONDISCRIMINATORY TRANSMISSION ACCESS
2 AND NECESSARY SERVICES; MINIMIZING SYSTEM CONGESTION; AND
3 FURTHER ADDRESSING REAL OR POTENTIAL TRANSMISSION CONSTRAINTS.

4 (II) "ORGANIZED WHOLESALE MARKET" MEANS A REGIONAL
5 TRANSMISSION ORGANIZATION, ALSO KNOWN AS AN RTO, OR AN
6 INDEPENDENT SYSTEM OPERATOR, ALSO KNOWN AS AN ISO.

7 (b) "TRANSMISSION UTILITY" MEANS A PUBLIC UTILITY THAT:

8 (I) IS A WHOLESALE ELECTRICITY SUPPLIER OR TRANSMITTER; AND

9 (II) OWNS AND OPERATES ELECTRIC TRANSMISSION LINES CAPABLE
10 OF TRANSMITTING ELECTRIC ENERGY AT A VOLTAGE OF ONE HUNDRED
11 KILOVOLTS OR MORE.

12 (2) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
13 (2)(a)(II) OF THIS SECTION, AND EXCEPT FOR MUNICIPALLY OWNED
14 UTILITIES AND POWER AUTHORITIES, ALL COLORADO TRANSMISSION
15 UTILITIES SHALL JOIN AN ORGANIZED WHOLESALE MARKET ON OR BEFORE
16 JANUARY 1, 2030.

17 (II) UPON APPLICATION BY A TRANSMISSION UTILITY, THE
18 COMMISSION MAY WAIVE OR DELAY THE REQUIREMENT STATED IN
19 SUBSECTION (2)(a)(I) OF THIS SECTION IF:

20 (A) THE COMMISSION HAS DETERMINED THAT THE TRANSMISSION
21 UTILITY HAS MADE ALL REASONABLE EFFORTS TO COMPLY WITH THE
22 REQUIREMENT BUT THERE IS NO VIABLE AND AVAILABLE OWM THAT THE
23 TRANSMISSION UTILITY CAN JOIN BY JANUARY 1, 2030; AND

24 (B) THE COMMISSION HAS DETERMINED, BASED ON THE STUDY
25 CONDUCTED IN ACCORDANCE WITH ARTICLE 2.3 OF THIS TITLE 40, THAT
26 REQUIRING THE TRANSMISSION UTILITY TO JOIN AN OWM IS NOT IN THE
27 PUBLIC INTEREST.

1 (b) THE COMMISSION IS DIRECTED TO PARTICIPATE ON BEHALF OF
2 THE STATE OF COLORADO, AS IT DEEMS APPROPRIATE, IN PROCEEDINGS
3 BEFORE THE FERC INVOLVING THE MANAGEMENT OF PHYSICAL
4 CONNECTIONS, SHARING OF DATA, AND INTERPRETATION AND
5 IMPLEMENTATION OF TARIFF AND BUSINESS PRACTICES BETWEEN OWMs
6 WHOSE BOUNDARIES MEET WITHIN COLORADO.

7 (3) THE COMMISSION SHALL CONSIDER ALLOWING, AND MAY
8 ALLOW, A TRANSMISSION UTILITY THAT JOINS AN OWM TO RECOVER
9 OWM SUBSCRIPTION FEES AND OTHER PRUDENTLY INCURRED COSTS OF
10 PARTICIPATION IN THE OWM THROUGH RATES OR THROUGH A NEW OR
11 EXISTING TRANSMISSION RIDER.

12 (4) NOTHING IN THIS SECTION SHALL BE USED OR INTERPRETED BY
13 THE COMMISSION TO DELAY OR IMPEDE ELECTRIC RESOURCE PLANNING
14 PROCEEDINGS FILED ON OR BEFORE DECEMBER 31, 2025, INCLUDING THE
15 APPROVAL, ACQUISITION OR CONSTRUCTION OF GENERATION AND
16 TRANSMISSION RESOURCES PRIOR TO A TRANSMISSION UTILITY'S ENTRY
17 INTO AN OWM AND ANY ACQUISITIONS THAT ARE PART OF OR ANCILLARY
18 TO AN ELECTRIC RESOURCE PLAN THAT INCLUDES A CLEAN ENERGY PLAN
19 APPROVED PURSUANT TO SECTION 40-2-125.5 OR 25-7-102.

20 **SECTION 3.** In Colorado Revised Statutes, 40-15-601, amend
21 (6); and add (6.5) as follows:

22 **40-15-601. Definitions.** As used in this part 6, unless the context
23 otherwise requires:

24 (6) "Electric utility" means a cooperative electric association, as
25 defined in section 40-9.5-102 HAS THE MEANING SET FORTH IN SECTION
26 40-42-102 (8); EXCEPT THAT THE TERM DOES NOT INCLUDE AN
27 INVESTOR-OWNED UTILITY, A MUNICIPALLY OWNED UTILITY, OR A

1 MUNICIPALLY OWNED POWER AUTHORITY.

2 (6.5) "GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC
3 ASSOCIATION" HAS THE SAME MEANING AS "WHOLESALE ELECTRIC
4 COOPERATIVE" AS SET FORTH IN SECTION 40-2-136 (3)(c).

5 **SECTION 4.** In Colorado Revised Statutes, **add** article 42 to title
6 40 as follows:

7 **ARTICLE 42**

8 **Colorado Electric Transmission Authority Act**

9 **40-42-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 42 IS
10 THE "COLORADO ELECTRIC TRANSMISSION AUTHORITY ACT".

11 **40-42-102. Definitions.** AS USED IN THIS ARTICLE 42, UNLESS THE
12 CONTEXT OTHERWISE REQUIRES:

13 (1) "ACQUIRE" MEANS TO OBTAIN ELIGIBLE FACILITIES BY LEASE,
14 CONSTRUCTION, RECONSTRUCTION, PURCHASE, OR, AS AUTHORIZED BY
15 SECTION 40-42-104 (1)(p) AND SUBJECT TO THE REQUIREMENTS OF
16 ARTICLES 1 TO 7 OF TITLE 38, THE EXERCISE OF THE POWER OF EMINENT
17 DOMAIN.

18 (2) "AUTHORITY" MEANS THE COLORADO ELECTRIC TRANSMISSION
19 AUTHORITY CREATED IN SECTION 40-42-103.

20 (3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
21 AUTHORITY.

22 (4) "BONDS" MEANS ELECTRIC TRANSMISSION BONDS ISSUED AS
23 AUTHORIZED BY THIS ARTICLE 42 AND INCLUDES NOTES, WARRANTS,
24 BONDS, TEMPORARY BONDS, AND ANTICIPATION NOTES ISSUED BY THE
25 AUTHORITY.

26 (5) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION
27 CREATED IN SECTION 40-2-101.

1 (6) "ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND" OR
2 "OPERATIONAL FUND" MEANS THE FUND CREATED IN SECTION 40-42-106.

3 (7) "ELECTRIC TRANSMISSION BONDING FUND" OR "BONDING
4 FUND" MEANS THE FUND CREATED IN SECTION 40-42-105 (3).

5 (8) "ELECTRIC UTILITY" MEANS AN ENTITY OPERATING FOR THE
6 PURPOSE OF SUPPLYING OR TRANSMITTING ELECTRICITY TO THE PUBLIC
7 FOR DOMESTIC, MECHANICAL, OR PUBLIC USES AND INCLUDES A
8 MUNICIPALLY OWNED UTILITY, A TRANSMISSION UTILITY, AS DEFINED IN
9 SECTION 40-5-108 (1)(b), A COOPERATIVE ELECTRIC ASSOCIATION, A
10 NONPROFIT ELECTRIC CORPORATION OR ASSOCIATION, AND EVERY OTHER
11 NON-INVESTOR-OWNED, VERTICALLY INTEGRATED SUPPLIER OF ELECTRIC
12 ENERGY SUPPLYING ELECTRIC ENERGY FOR ITS CUSTOMERS OR FOR THE
13 USE OF ITS OWN MEMBERS.

14 (9) "ELIGIBLE FACILITIES" MEANS FACILITIES THAT ARE FINANCED
15 OR ACQUIRED BY THE AUTHORITY.

16 10) "FACILITIES" MEANS ELECTRIC TRANSMISSION FACILITIES AND
17 ALL RELATED STRUCTURES, PROPERTIES, AND SUPPORTING
18 INFRASTRUCTURE, INCLUDING ANY INTERESTS THEREIN. THE TERM DOES
19 NOT INCLUDE INTERCONNECTION FACILITIES FROM AN ELECTRIC
20 GENERATOR, OR FROM A STORAGE PROJECT THAT IS USED FOR ELECTRIC
21 GENERATION, TO A FACILITY.

22 (11) "FERC" MEANS THE FEDERAL ENERGY REGULATORY
23 COMMISSION.

24 (12) "FINANCE" OR "FINANCING" MEANS THE LENDING OF BOND
25 PROCEEDS BY THE AUTHORITY TO A PUBLIC UTILITY OR OTHER PRIVATE
26 PERSON FOR THE PURPOSE OF PLANNING, ACQUIRING, OPERATING, AND
27 MAINTAINING ELIGIBLE FACILITIES IN WHOLE OR IN PART BY THE PUBLIC

1 UTILITY OR OTHER PRIVATE PERSON.

2 (13) "LOCAL GOVERNMENT" MEANS A COUNTY, HOME RULE OR
3 STATUTORY CITY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND
4 COUNTY.

5 (14) "PROJECT" MEANS AN UNDERTAKING BY THE AUTHORITY TO
6 FINANCE OR TO PLAN, ACQUIRE, MAINTAIN, AND OPERATE ELIGIBLE
7 FACILITIES LOCATED PARTLY OR ENTIRELY WITHIN COLORADO.

8 (15) "STORAGE" HAS THE SAME MEANING AS "ENERGY STORAGE
9 SYSTEM" AS DEFINED IN SECTION 40-2-202 (2).

10 **40-42-103. Authority - creation - board - open meetings and**

11 **open records.** (1) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
12 IS HEREBY CREATED AS AN INDEPENDENT PUBLIC BODY POLITIC AND
13 CORPORATE. THE AUTHORITY IS A PUBLIC INSTRUMENTALITY, AND ITS
14 EXERCISE OF THE POWERS AS AUTHORIZED BY THIS ARTICLE 42 IS THE
15 PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION. THE AUTHORITY IS A
16 POLITICAL SUBDIVISION OF THE STATE, IS NOT AN AGENCY OF STATE
17 GOVERNMENT, AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY
18 ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE.

19 (2) (a) THE POWERS OF THE AUTHORITY ARE VESTED IN A BOARD
20 OF DIRECTORS, WHICH CONSISTS OF THE FOLLOWING NINE MEMBERS:

21 (I) TWO MEMBERS APPOINTED BY THE GOVERNOR WITH THE
22 CONSENT OF THE SENATE;

23 (II) THE DIRECTOR OF THE COLORADO ENERGY OFFICE CREATED
24 IN SECTION 24-38.5-101 OR THE DIRECTOR'S DESIGNEE;

25 (III) THREE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
26 OF REPRESENTATIVES; AND

27 (IV) THREE MEMBERS APPOINTED BY THE PRESIDENT OF THE

1 SENATE.

2 (b) THE APPOINTED MEMBERS OF THE BOARD MUST HAVE THE
3 FOLLOWING QUALIFICATIONS:

4 (I) OF THE MEMBERS APPOINTED BY THE GOVERNOR, ONE MUST
5 HAVE EXPERTISE IN FINANCIAL MATTERS INVOLVING THE FINANCING OF
6 MAJOR ELECTRIC TRANSMISSION PROJECTS AND THE OTHER MUST
7 REPRESENT THE INTERESTS OF ELECTRIC UTILITY CUSTOMERS RESIDING
8 WEST OF THE CONTINENTAL DIVIDE;

9 (II) OF THE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
10 OF REPRESENTATIVES, ONE MUST HAVE UTILITY EXPERIENCE;

11 (III) OF THE MEMBERS APPOINTED BY THE PRESIDENT OF THE
12 SENATE, ONE MUST REPRESENT THE INTERESTS OF WILDLIFE
13 CONSERVATION AND LAND USE;

14 (IV) OF THE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
15 OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE:

16 (A) ONE MUST REPRESENT THE INTERESTS OF ORGANIZED LABOR;

17 (B) ONE MUST REPRESENT THE INTERESTS OF RESIDENTIAL
18 CUSTOMERS OF ELECTRIC UTILITIES;

19 (C) ONE MUST REPRESENT THE INTERESTS OF COMMERCIAL OR
20 INDUSTRIAL CUSTOMERS OF ELECTRIC UTILITIES; AND

21 (D) ONE MUST HAVE KNOWLEDGE OF RENEWABLE ENERGY
22 DEVELOPMENT.

23 (c) A MEMBER OF THE BOARD SHALL NOT REPRESENT A PERSON
24 THAT OWNS OR OPERATES FACILITIES.

25 (d) BOARD MEMBERS SHALL SERVE FOUR-YEAR TERMS; EXCEPT
26 THAT, OF THE APPOINTED MEMBERS INITIALLY APPOINTED TO THE BOARD,
27 ONE OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE

1 MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
2 REPRESENTATIVES SHALL SERVE INITIAL TERMS OF THREE YEARS AND ONE
3 OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE
4 MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE SHALL SERVE
5 INITIAL TERMS OF TWO YEARS. THE REMAINDER OF THE APPOINTED
6 MEMBERS INITIALLY APPOINTED TO THE BOARD SHALL SERVE FOUR-YEAR
7 TERMS. THEREAFTER, ALL APPOINTED MEMBERS OF THE BOARD SHALL
8 SERVE FOUR-YEAR TERMS. A VACANCY IN THE MEMBERSHIP OF THE BOARD
9 MUST BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT
10 FOR THE REMAINDER OF THE EXPIRED TERM ONLY.

11 (e) AN APPOINTED MEMBER OF THE BOARD IS ELIGIBLE FOR
12 REAPPOINTMENT. AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF
13 THE BOARD FOR CAUSE.

14 (f) BOARD MEMBERS SHALL NOT RECEIVE COMPENSATION FOR
15 THEIR SERVICES BUT SHALL BE REIMBURSED FOR THEIR REASONABLE AND
16 NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE
17 PERFORMANCE OF THEIR OFFICIAL DUTIES.

18 (3) THE MEMBERS OF THE BOARD SHALL ELECT A CHAIR AND A
19 VICE-CHAIR. FOUR MEMBERS OF THE BOARD CONSTITUTE A QUORUM.

20 (4) THE AUTHORITY IS SUBJECT TO THE OPEN MEETINGS
21 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", ARTICLE 6 OF
22 TITLE 24, AND TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF
23 ARTICLE 72 OF TITLE 24. HOWEVER, INFORMATION OBTAINED BY THE
24 AUTHORITY THAT IS DESIGNATED BY THE BOARD AS PROPRIETARY
25 TECHNICAL OR BUSINESS INFORMATION IS CONFIDENTIAL AND IS NOT
26 SUBJECT TO INSPECTION PURSUANT TO THE "COLORADO OPEN RECORDS
27 ACT". INFORMATION THAT THE BOARD MAY DESIGNATE AS PROPRIETARY

1 CONFIDENTIAL INFORMATION INCLUDES POWER PURCHASE AGREEMENTS,
2 COSTS OF PRODUCTION, COSTS OF TRANSMISSION, TRANSMISSION SERVICE
3 AGREEMENTS, CREDIT REVIEWS, DETAILED POWER MODELS, AND
4 FINANCING STATEMENTS.

5 **40-42-104. General and specific powers and duties of the**
6 **authority. (1) EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE 42, THE**
7 **AUTHORITY, ACTING THROUGH THE BOARD, HAS THE POWER TO:**

8 **(a) HOLD AND EXERCISE ALL RIGHTS, DUTIES, PRIVILEGES,**
9 **IMMUNITIES, LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND**
10 **A POLITICAL SUBDIVISION OF THE STATE;**

11 **(b) HAVE AN OFFICIAL SEAL AND ALTER THE SEAL AT THE BOARD'S**
12 **PLEASURE;**

13 **(c) ESTABLISH REASONABLE ADMINISTRATIVE AND PROCEDURAL**
14 **BYLAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT AND FOR**
15 **THE CONDUCT OF ITS AFFAIRS AND BUSINESS;**

16 **(d) MAINTAIN AN OFFICE AT ANY PLACE IN COLORADO THAT IT**
17 **MAY DETERMINE;**

18 **(e) ACQUIRE, HOLD, USE, OWN IN WHOLE OR IN PART, LEASE, RENT,**
19 **AND DISPOSE OF REAL AND PERSONAL PROPERTY AND ITS INCOME,**
20 **REVENUE, FUNDS, AND MONEY;**

21 **(f) SOLICIT AND RECEIVE AND EXPEND GIFTS, GRANTS, AND**
22 **DONATIONS;**

23 **(g) MAKE AND ENTER INTO ALL CONTRACTS, LEASES, AND**
24 **AGREEMENTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS AND**
25 **ASSIGNMENTS OF PAYMENTS TO HOST LANDOWNERS, THAT ARE**
26 **NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES AND THE**
27 **EXERCISE OF ITS POWERS UNDER THIS ARTICLE 42, INCLUDING:**

1 (I) CONTRACTS TO PURCHASE AND DISPOSE OF ELIGIBLE
2 FACILITIES;

3 (II) CONTRACTS FOR THE LEASE AND OPERATION BY THE
4 AUTHORITY OF ELIGIBLE FACILITIES OWNED BY AN ELECTRIC UTILITY OR
5 OTHER PRIVATE PERSON; AND

6 (III) CONTRACTS FOR LEASING ELIGIBLE FACILITIES OWNED BY THE
7 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT THE AUTHORITY
8 DEPOSIT ANY REVENUE DERIVED PURSUANT TO THE LEASE INTO THE
9 ELECTRIC TRANSMISSION BONDING FUND;

10 (h) UNLESS OTHERWISE SPECIFICALLY PROHIBITED BY THIS
11 ARTICLE 42, DEPOSIT MONEY OF THE AUTHORITY IN ANY BANKING
12 INSTITUTION WITHIN OR OUTSIDE THE STATE;

13 (i) FIX THE TIME AND PLACE OR PLACES AT WHICH ITS REGULAR
14 AND SPECIAL MEETINGS ARE TO BE HELD;

15 (j) HIRE A CHIEF EXECUTIVE OFFICER OF THE AUTHORITY AND
16 AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO HIRE OTHER STAFF AS
17 NECESSARY FOR THE OPERATION OF THE AUTHORITY;

18 (k) USE THE SERVICES OF EXECUTIVE DEPARTMENTS OF THE STATE
19 UPON MUTUALLY AGREEABLE TERMS AND CONDITIONS;

20 (l) ENTER INTO PARTNERSHIPS WITH PUBLIC OR PRIVATE ENTITIES;

21 (m) IDENTIFY AND ESTABLISH CORRIDORS FOR THE TRANSMISSION
22 OF ELECTRICITY WITHIN THE STATE, SUBJECT TO SITING AND LAND USE
23 APPROVAL BY THE LOCAL GOVERNMENT WITH SITING AND LAND USE
24 AUTHORITY PURSUANT TO ARTICLE 65.1 OF TITLE 24;

25 (n) THROUGH PARTICIPATION IN APPROPRIATE REGIONAL
26 TRANSMISSION FORUMS AND OTHER ORGANIZATIONS, INCLUDING
27 ORGANIZED WHOLESALE MARKETS, AS DEFINED IN SECTION 40-5-108

1 (1)(a), COORDINATE, INVESTIGATE, PLAN, PRIORITIZE, AND NEGOTIATE
2 WITH ENTITIES WITHIN AND OUTSIDE COLORADO FOR THE ESTABLISHMENT
3 OF INTERSTATE TRANSMISSION CORRIDORS AND ENGAGE IN OTHER
4 TRANSMISSION PLANNING ACTIVITIES THAT WOULD INCREASE GRID
5 RELIABILITY, HELP COLORADO MEET ITS CLEAN ENERGY GOALS, AND AID
6 IN ECONOMIC DEVELOPMENT;

7 (o) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (2) OF THIS
8 SECTION, CONDUCT A TRANSPARENT AND COMPETITIVE PROCESS TO
9 SELECT A QUALIFIED TRANSMISSION OPERATOR, AS DEFINED BY THE
10 COMMISSION, TO ASSUME THE RESPONSIBILITY TO CARRY OUT ALL
11 REQUIRED FINANCING, PLANNING, ACQUISITION, MAINTENANCE, AND
12 OPERATION OF ELIGIBLE FACILITIES NECESSARY OR USEFUL FOR THE
13 ACCOMPLISHMENT OF THE PURPOSES OF THIS ARTICLE 42;

14 (p) SUBJECT TO THE REQUIREMENTS OF ARTICLES 1 TO 7 OF TITLE
15 38, HAVE AND EXERCISE THE POWER OF EMINENT DOMAIN FOR ACQUIRING
16 ANY PROPERTY OR RIGHTS-OF-WAY, EXCEPT PROPERTY OF AN ELECTRIC
17 UTILITY OR PROPERTY OR RIGHTS-OF-WAY OWNED BY A LOCAL
18 GOVERNMENT, NECESSARY FOR PROJECTS; EXCEPT THAT, IF LAND TO BE
19 ACQUIRED THROUGH EMINENT DOMAIN IS SUBJECT TO A PERPETUAL
20 CONSERVATION EASEMENT, THE AUTHORITY SHALL PAY COMPENSATION
21 TO THE OWNER AS THOUGH THE LAND WERE NOT SUBJECT TO A PERPETUAL
22 CONSERVATION EASEMENT.

23 (q) FOR ANY PROJECT, PROVIDE INFORMATION AND TRAINING TO
24 EMPLOYEES OF THE PROJECT REGARDING:

- 25 (I) ANY UNIQUE HAZARDS THAT MAY BE POSED BY THE PROJECT;
- 26 (II) SAFE WORK PRACTICES; AND
- 27 (III) EMERGENCY PROCEDURES;

1 (r) ISSUE BONDS AS NECESSARY TO UNDERTAKE A PROJECT;

2 (s) COLLECT PAYMENTS OF REASONABLE RATES, FEES, INTEREST,
3 OR OTHER CHARGES FROM PERSONS USING ELIGIBLE FACILITIES TO
4 FINANCE ELIGIBLE FACILITIES AND FOR OTHER SERVICES RENDERED BY THE
5 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT ANY REVENUE DERIVED
6 FROM PAYMENTS MADE TO THE AUTHORITY SHALL BE DEPOSITED IN THE
7 ELECTRIC TRANSMISSION BONDING FUND;

8 (t) MAKE DETERMINATIONS ABOUT THE EFFICIENT USE OF EXISTING
9 RIGHTS-OF-WAY ON PROJECTS IT PROPOSES TO DEVELOP AS A
10 PRECONDITION TO PIONEERING NEW RIGHTS-OF-WAY FOR SUCH PROJECTS;

11 (u) CONSIDER OPTIONS AND ALTERNATIVES, INCLUDING THROUGH
12 STUDIES CONTRACTED WITH INDEPENDENT EXPERT ANALYSTS, TO
13 INCREASE THE EFFICIENT USE OF THE TRANSMISSION SYSTEM AND RELIEVE
14 CONSTRAINTS ON THE TRANSMISSION SYSTEM, WHICH OPTIONS AND
15 ALTERNATIVES MAY INCLUDE STORAGE AND ADVANCED TRANSMISSION
16 TECHNOLOGIES; AND

17 (v) DO ANY AND ALL THINGS NECESSARY OR CONVENIENT TO
18 CARRY OUT ITS PURPOSES AND EXERCISE THE POWERS GIVEN AND
19 GRANTED IN THIS ARTICLE 42.

20 (2) EXCEPT AS PROVIDED IN THIS SUBSECTION (2), THE AUTHORITY
21 SHALL NOT ENTER INTO A PROJECT IF AN ELECTRIC UTILITY OR A
22 NONINCUMBENT TRANSMISSION PROVIDER OR OTHER ENTITY IS
23 CONSTRUCTING OR HAS CONSTRUCTED THE FACILITIES OR IS PROVIDING
24 THE SERVICES CONTEMPLATED BY THE AUTHORITY. BEFORE THE
25 AUTHORITY ENTERS INTO A PROJECT, THE FOLLOWING PROCEDURAL
26 REQUIREMENTS MUST BE MET:

27 (a) THE AUTHORITY SHALL PROVIDE TO EACH ELECTRIC UTILITY

1 AND THE COMMISSION AND PUBLISH AT LEAST ONCE IN A NEWSPAPER OF
2 GENERAL CIRCULATION IN COLORADO, AT LEAST ONCE IN A NEWSPAPER OF
3 GENERAL CIRCULATION IN THE AREA WHERE THE ELIGIBLE FACILITIES WILL
4 BE LOCATED, AND CONTINUOUSLY ON A PUBLICLY ACCESSIBLE WEB PAGE
5 MAINTAINED BY THE AUTHORITY AN INITIAL NOTICE DESCRIBING THE
6 PROJECT THAT THE AUTHORITY IS CONSIDERING.

7 (b) ANY PERSON WITH AN INTEREST THAT MAY BE AFFECTED BY
8 THE PROPOSED PROJECT HAS THIRTY DAYS AFTER THE DATE OF THE LAST
9 PRINTED PUBLICATION OF THE INITIAL NOTICE TO SUBMIT A WRITTEN
10 CHALLENGE CONCERNING THE PROPOSED PROJECT TO THE AUTHORITY. IF
11 THE AUTHORITY RECEIVES A CHALLENGE WITHIN THE THIRTY DAYS, THE
12 AUTHORITY SHALL HOLD A PUBLIC HEARING NO SOONER THAN THIRTY
13 DAYS AFTER RECEIVING THE CHALLENGE AND AT LEAST TWO WEEKS AFTER
14 POSTING NOTICE OF THE HEARING IN THE SAME NEWSPAPERS IN WHICH AND
15 WEB PAGE ON WHICH THE INITIAL NOTICE WAS GIVEN. FOLLOWING THE
16 PUBLIC HEARING, THE AUTHORITY SHALL MAKE A FINAL DETERMINATION
17 ON WHETHER THE AUTHORITY WILL IMPLEMENT THE PROPOSED PROJECT
18 AND GIVE NOTICE OF THE DETERMINATION IN THE SAME NEWSPAPERS AND
19 ON THE SAME WEB PAGE AS THE INITIAL NOTICE GIVEN. ANY PERSON OR
20 GOVERNMENTAL ENTITY PARTICIPATING IN THE HEARING MAY APPEAL THE
21 FINAL DETERMINATION BY FILING A NOTICE OF APPEAL WITH THE DISTRICT
22 COURT FOR THE CITY AND COUNTY OF DENVER WITHIN THIRTY-FIVE DAYS
23 AFTER THE DATE OF THE FINAL DETERMINATION.

24 (c) THE AUTHORITY SHALL COLLECT AND CONSIDER RELEVANT
25 DATA FROM DIVISION OF PARKS AND WILDLIFE'S STATE WILDLIFE ACTION
26 PLAN AND FROM THE COLORADO NATURAL HERITAGE PROGRAM
27 REGARDING WAYS IN WHICH THE PROJECT COULD CAUSE ADVERSE

1 ENVIRONMENTAL IMPACTS TO STATE AND FEDERALLY LISTED SPECIES, AS
2 WELL AS SPECIES, HABITATS, AND ECOSYSTEMS OF GREATEST
3 CONSERVATION NEED.

4 (d) ELECTRIC UTILITIES AND OTHER PERSONS WILLING AND ABLE
5 TO PROVIDE MONEY FOR, ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE
6 FACILITIES DESCRIBED IN THE NOTICE HAVE THE FOLLOWING PERIOD
7 WITHIN WHICH TO NOTIFY THE AUTHORITY OF INTENTION AND ABILITY TO
8 PROVIDE MONEY FOR, ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE
9 FACILITIES DESCRIBED IN THE NOTICE:

10 (I) WITHIN NINETY DAYS AFTER THE DATE OF THE LAST PRINTED
11 PUBLICATION OF THE INITIAL NOTICE IF NO CHALLENGE IS RECEIVED
12 PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION; OR

13 (II) WITHIN NINETY DAYS AFTER THE DATE OF THE NOTICE OF
14 DETERMINATION IF A CHALLENGE IS RECEIVED PURSUANT TO SUBSECTION
15 (2)(b) OF THIS SECTION.

16 (e) ABSENT NOTIFICATION BY AN ELECTRIC UTILITY OR OTHER
17 PERSON PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION, OR IF A
18 PERSON, HAVING GIVEN NOTICE OF INTENTION TO PROVIDE MONEY FOR,
19 ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE FACILITIES
20 CONTEMPLATED BY THE AUTHORITY, FAILS TO MAKE A GOOD-FAITH
21 EFFORT TO BEGIN TO DO SO WITHIN SIX MONTHS AFTER THE DATE THE
22 PERSON NOTIFIED THE AUTHORITY OF ITS INTENTION, THE AUTHORITY MAY
23 PROCEED TO FINANCE, PLAN, ACQUIRE, MAINTAIN, AND OPERATE THE
24 ELIGIBLE FACILITIES ORIGINALLY CONTEMPLATED. HOWEVER, A PERSON
25 THAT, WITHIN THE TIME REQUIRED, HAS MADE NECESSARY APPLICATIONS
26 TO ACQUIRE FEDERAL, STATE, LOCAL, OR PRIVATE PERMITS, CERTIFICATES,
27 OR OTHER APPROVALS NECESSARY TO ACQUIRE THE ELIGIBLE FACILITIES

1 IS DEEMED TO HAVE COMMENCED THE ACQUISITION AS LONG AS THE
2 PERSON DILIGENTLY PURSUES THE PERMITS, CERTIFICATES, OR OTHER
3 APPROVALS.

4 (3) IN SOLICITING AND ENTERING INTO CONTRACTS FOR THE
5 TRANSMISSION OR STORAGE OF ELECTRICITY, THE AUTHORITY AND ANY
6 PERSON LEASING OR OPERATING ELIGIBLE FACILITIES FINANCED OR
7 ACQUIRED BY THE AUTHORITY SHALL, IF PRACTICABLE, GIVE PRIORITY TO
8 THOSE CONTRACTS THAT WILL TRANSMIT OR STORE ELECTRICITY TO BE
9 SOLD AND CONSUMED IN COLORADO.

10 (4) NEITHER THE AUTHORITY NOR ANY ELIGIBLE FACILITIES
11 ACQUIRED BY THE AUTHORITY ARE SUBJECT TO THE SUPERVISION,
12 REGULATION, CONTROL, OR JURISDICTION OF THE COMMISSION.

13 (5) (a) OWNERSHIP OF ELIGIBLE FACILITIES BY THE AUTHORITY
14 MAY NOT EXCEED THE EXTENT AND DURATION NECESSARY OR USEFUL TO
15 PROMOTE THE PUBLIC INTEREST. BEFORE BECOMING AN OWNER OR
16 PARTIAL OWNER OF AN ELIGIBLE FACILITY, THE AUTHORITY SHALL
17 DEVELOP A PLAN IDENTIFYING:

18 (I) THE PUBLIC PURPOSES OF THE AUTHORITY'S OWNERSHIP;

19 (II) THE CONDITIONS THAT WOULD MAKE THE AUTHORITY'S
20 OWNERSHIP NO LONGER NECESSARY FOR ACCOMPLISHING THOSE PUBLIC
21 PURPOSES; AND

22 (III) A PLAN TO DIVEST THE AUTHORITY OF OWNERSHIP OF THE
23 FACILITY AS SOON AS ECONOMICALLY PRUDENT ONCE THOSE CONDITIONS
24 OCCUR, WHICH MAY INCLUDE DIVESTMENT BEFORE THE LINE IS ENERGIZED.

25 (b) FOR ELIGIBLE FACILITIES THAT ARE LEASED TO ANOTHER
26 ENTITY BY THE AUTHORITY, AT THE END OF THE LEASE, ABSENT DEFAULT
27 BY THE LESSEE, THE AUTHORITY SHALL CONVEY ITS INTEREST IN THE

1 FACILITIES TO THE LESSEE AT A PRICE THAT REFLECTS THE CURRENT FAIR
2 MARKET VALUE.

3 (c) ELIGIBLE FACILITIES OWNED BY THE AUTHORITY ARE SUBJECT
4 TO THE REQUIREMENTS OF VALUATION AND TAXATION AS SET FORTH IN
5 ARTICLES 4 AND 5 OF TITLE 39.

6 (d) NEITHER THE AUTHORITY NOR ANY ENERGY ASSETS OWNED OR
7 CONTROLLED BY THE AUTHORITY OR ANY ELECTRIC UTILITY, OTHER THAN
8 MUNICIPAL UTILITIES OR POWER AUTHORITIES, PURSUANT TO THIS ARTICLE
9 42 ARE EXEMPT FROM PROPERTY TAXES.

10 (6) (a) AN ELECTRIC UTILITY THAT IS SUBJECT TO RATE
11 REGULATION BY THE COMMISSION MAY RECOVER THE CAPITAL COST OF A
12 PROJECT UNDERTAKEN PURSUANT TO THIS ARTICLE 42 FROM ITS RETAIL
13 CUSTOMERS ONLY IF THE PROJECT HAS RECEIVED A CERTIFICATE OF PUBLIC
14 CONVENIENCE AND NECESSITY FROM THE COMMISSION. AN ELECTRIC
15 UTILITY THAT IS A MUNICIPALLY OWNED UTILITY EXEMPT FROM
16 REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE
17 PROJECT HAS BEEN APPROVED BY THE GOVERNING BODY OF THE
18 MUNICIPALITY. A COOPERATIVE ELECTRIC ASSOCIATION EXEMPT FROM
19 REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE
20 PROJECT HAS BEEN APPROVED BY THE BOARD OF DIRECTORS OF THE
21 COOPERATIVE ELECTRIC ASSOCIATION.

22 (b) COSTS ASSOCIATED WITH A PROJECT UNDERTAKEN PURSUANT
23 TO THIS ARTICLE 42 ARE NOT RECOVERABLE FROM RETAIL UTILITY
24 CUSTOMERS EXCEPT TO THE EXTENT THE COSTS ARE PRUDENTLY
25 INCURRED AND THE PROJECT IS USED AND USEFUL IN SERVING THOSE
26 CUSTOMERS.

27 (7) THE AUTHORITY MAY SELL ANY OF ITS FACILITIES TO A

1 COLORADO ELECTRIC UTILITY.

2 (8) THE AUTHORITY MAY PETITION THE FERC FOR A
3 CLARIFICATION OF THE EXCLUSIVE OR CONCURRENT JURISDICTION OF THE
4 FERC OVER ANY MATTER CONSIDERED OR ACTION TAKEN BY THE
5 AUTHORITY UNDER THIS ARTICLE 42. THE GENERAL ASSEMBLY DECLARES
6 ITS INTENT THAT THE AUTHORITY AND THE COMMISSION BE ABLE TO
7 CARRY OUT THEIR POWERS AND DUTIES TO THE BROADEST EXTENT
8 POSSIBLE, CONSISTENT WITH PRINCIPLES OF FEDERALISM, TO ACHIEVE THE
9 GOALS AND EFFECTUATE THE PURPOSES OF THIS ARTICLE 42.

10 (9) NOTHING IN THIS SECTION WAIVES OR SUPERSEDES THE
11 APPLICATION OF SECTION 29-20-108 OR 40-5-101 (3) TO A PROJECT
12 PROPOSED OR DEVELOPED BY THE AUTHORITY.

13 **40-42-105. Electric transmission bonds - conditions of issuance**
14 **- electric transmission bonding fund creation - auditor examination**
15 **- payment from bonding fund - exemption from taxation.** (1) THE
16 AUTHORITY MAY ISSUE AND SELL ELECTRIC TRANSMISSION BONDS,
17 PAYABLE SOLELY FROM THE ELECTRIC TRANSMISSION BONDING FUND, IN
18 COMPLIANCE WITH THIS ARTICLE 42 FOR THE PURPOSE OF ENTERING INTO
19 A PROJECT WHEN THE AUTHORITY DETERMINES THAT THE PROJECT IS
20 NEEDED. THIS ARTICLE 42 IS, WITHOUT REFERENCE TO ANY OTHER LAW,
21 FULL AUTHORITY FOR THE ISSUANCE AND SALE OF BONDS. BONDS HAVE
22 ALL THE QUALITIES OF INVESTMENT SECURITIES UNDER THE "UNIFORM
23 COMMERCIAL CODE", TITLE 4, AND SHALL NOT BE DEEMED INVALID FOR
24 ANY IRREGULARITY OR DEFECT OR BE CONTESTABLE IN THE HANDS OF
25 BONA FIDE PURCHASERS OR HOLDERS OF THE BONDS FOR VALUE.

26 (2) (a) BONDS MAY BE EXECUTED AND DELIVERED BY THE
27 AUTHORITY AT SUCH TIMES; MAY BE IN SUCH FORM AND DENOMINATIONS

1 AND INCLUDE SUCH TERMS AND MATURITIES; MAY BE SUBJECT TO
2 OPTIONAL OR MANDATORY REDEMPTION PRIOR TO MATURITY WITH OR
3 WITHOUT A PREMIUM; MAY BE IN FULLY REGISTERED FORM OR BEARER
4 FORM REGISTRABLE AS TO PRINCIPAL OR INTEREST OR BOTH; MAY BEAR
5 SUCH CONVERSION PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS
6 AND AT SUCH TIMES NOT EXCEEDING THIRTY YEARS; MAY BE PAYABLE AT
7 SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE STATE; MAY
8 BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH MAY BE
9 FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA OR AS
10 DETERMINED BY THE AUTHORITY OR ITS AGENTS, WITHOUT REGARD TO
11 ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE
12 STATE; MAY BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR
13 THE AUTHORITY; MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED
14 BY SUCH OFFICERS OF THE AUTHORITY, INCLUDING THE USE OF ONE OR
15 MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL
16 SIGNATURE APPEARS ON THE BONDS, WHICH MAY BE EITHER OF AN OFFICER
17 OF THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME; MAY BE
18 IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST
19 COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF
20 THE AUTHORITY; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT
21 WITH THIS ARTICLE 42, ALL AS PROVIDED IN THE RESOLUTION OF THE
22 AUTHORITY UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR
23 AS PROVIDED IN A TRUST INDENTURE BETWEEN THE AUTHORITY AND ANY
24 COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST POWERS.

25 (b) (I) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH
26 PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED
27 BY THE BOARD, AND THE BOARD MAY PAY ALL FEES, EXPENSES, AND

1 COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN
2 CONNECTION WITH THE SALE OF BONDS.

3 (II) THE BOARD MAY DELEGATE TO AN OFFICER OR AGENT OF THE
4 BOARD THE POWER TO:

5 (A) FIX THE DATE OF SALE OF BONDS;

6 (B) RECEIVE BIDS OR PROPOSALS;

7 (C) AWARD AND SELL BONDS;

8 (D) FIX INTEREST RATES; AND

9 (E) TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER
10 BONDS.

11 (III) THE AUTHORITY MAY REFUND ANY OUTSTANDING BONDS
12 PURSUANT TO ARTICLE 56 OF TITLE 11.

13 (IV) ALL BONDS AND ANY INTEREST COUPONS APPLICABLE TO THE
14 BONDS ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.

15 (c) BONDS ARE EXEMPT FROM TAXATION BY THE STATE AND ANY
16 COUNTY, CITY AND COUNTY, MUNICIPALITY, OR OTHER POLITICAL
17 SUBDIVISION OF THE STATE.

18 (d) PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), MAY
19 INVEST PUBLIC MONEY IN BONDS SO LONG AS THE BONDS SATISFY THE
20 INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF
21 TITLE 24.

22 (e) NEITHER A MEMBER OF THE BOARD NOR AN EMPLOYEE OF THE
23 AUTHORITY NOR ANY PERSON EXECUTING BONDS IS LIABLE PERSONALLY
24 ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY BY REASON OF
25 THE ISSUANCE OF THE BONDS.

26 (3) (a) (I) THE ELECTRIC TRANSMISSION BONDING FUND IS
27 CREATED IN THE AUTHORITY. THE BONDING FUND CONSISTS OF:

1 (A) REVENUE RECEIVED BY THE AUTHORITY FROM OPERATING OR
2 LEASING ELIGIBLE FACILITIES;

3 (B) FEES AND SERVICE CHARGES COLLECTED;

4 (C) BOND PROCEEDS;

5 (D) MONEY FROM PAYMENTS OF PRINCIPAL AND INTEREST ON
6 LOANS IF THE AUTHORITY HAS PROVIDED FINANCING FOR ELIGIBLE
7 FACILITIES; AND

8 (E) ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
9 INVESTMENT OF MONEY IN THE BONDING FUND.

10 (II) THE AUTHORITY MAY CREATE SEPARATE ACCOUNTS WITHIN
11 THE BONDING FUND IN CONNECTION WITH ANY ISSUANCE OF BONDS AND
12 MAY DEPOSIT IN THE SEPARATE ACCOUNTS REVENUE RECEIVED BY THE
13 AUTHORITY FROM THE FINANCING OR LEASING OF ELIGIBLE FACILITIES.
14 ANY SEPARATE ACCOUNT SHALL BE HELD BY A TRUSTEE ACTING UNDER A
15 TRUST INDENTURE RELATING TO THE BONDS CONNECTED TO THE
16 ACCOUNT. INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
17 INVESTMENT OF MONEY IN A SEPARATE ACCOUNT SHALL BE CREDITED TO
18 THE ACCOUNT.

19 (III) BALANCES IN THE BONDING FUND AT THE END OF ANY STATE
20 FISCAL YEAR REMAIN IN THE BONDING FUND, EXCEPT AS OTHERWISE
21 PROVIDED IN THIS SECTION.

22 (b) (I) MONEY IN THE BONDING FUND SHALL BE DEPOSITED IN A
23 BANK DESIGNATED BY THE AUTHORITY IN AN ACCOUNT OR ACCOUNTS AS
24 THE AUTHORITY MAY ESTABLISH. MONEY IN ACCOUNTS SHALL BE
25 WITHDRAWN ON THE ORDER OF PERSONS THE AUTHORITY MAY AUTHORIZE.
26 ALL DEPOSITS OF MONEY SHALL BE SECURED IN SUCH MANNER AS THE
27 AUTHORITY MAY DETERMINE.

1 (II) ALL FUNDS AND ACTIVITIES OF THE AUTHORITY, INCLUDING ITS
2 RECEIPTS, DISBURSEMENTS, CONTRACTS, LEASES, FUNDS, INVESTMENTS,
3 AND ANY OTHER RECORDS AND PAPERS RELATING TO ITS FINANCIAL
4 STANDING, ARE SUBJECT TO ANNUAL AUDIT, AT THE AUTHORITY'S
5 EXPENSE, IN ACCORDANCE WITH SECTION 29-1-603.

6 (c) MONEY IN THE BONDING FUND IS PLEDGED FOR THE PAYMENT
7 OF PRINCIPAL AND INTEREST ON BONDS ISSUED PURSUANT TO THIS ARTICLE
8 42. MONEY IN ANY SEPARATE ACCOUNT MAY BE PLEDGED SOLELY TO
9 PAYMENT OF THE BONDS FOR WHICH THE SEPARATE ACCOUNT WAS
10 CREATED. THE AUTHORITY MAY EXPEND MONEY IN THE BONDING FUND OR
11 A SEPARATE ACCOUNT FOR THE PURPOSE OF PAYING DEBT SERVICE,
12 INCLUDING REDEMPTION PREMIUMS, ON BONDS AND EXPENSES INCURRED
13 IN THE ISSUANCE, PAYMENT, AND ADMINISTRATION OF THE BONDS.

14 (4) TWICE ANNUALLY THE AUTHORITY SHALL ESTIMATE THE
15 AMOUNTS NEEDED TO MAKE DEBT SERVICE AND OTHER PAYMENTS ON
16 BONDS DURING THE NEXT TWELVE MONTHS FROM THE BONDING FUND AND
17 FROM ANY SEPARATE ACCOUNT CREATED IN THE BONDING FUND PLUS THE
18 AMOUNT THAT MAY BE NEEDED FOR ANY REQUIRED RESERVES OR OTHER
19 REQUIREMENTS AS MAY BE SET FORTH IN THE TRUST INDENTURE RELATED
20 TO THE BONDS. THE AUTHORITY SHALL TRANSFER TO THE ELECTRIC
21 TRANSMISSION AUTHORITY OPERATIONAL FUND ANY BALANCE IN THE
22 BONDING FUND OR ANY SEPARATE ACCOUNT CREATED IN THE BONDING
23 FUND ABOVE THE ESTIMATED AMOUNTS. PAYMENTS FOR ADMINISTRATIVE
24 COSTS SHALL BE DEPOSITED IN THE OPERATIONAL FUND.

25 (5) BONDS ARE PAYABLE SOLELY FROM THE BONDING FUND OR
26 FROM ANY SEPARATE ACCOUNT CREATED WITHIN THE BONDING FUND OR,
27 WITH THE APPROVAL OF THE BONDHOLDERS, SUCH OTHER SPECIAL FUNDS

1 AS MAY BE PROVIDED BY LAW, AND THE BONDS DO NOT CREATE AN
2 OBLIGATION OR INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF
3 ANY CONSTITUTIONAL PROVISION OR LAW. A BREACH OF A CONTRACTUAL
4 OBLIGATION INCURRED PURSUANT TO THIS ARTICLE 42 DOES NOT IMPOSE
5 A PECUNIARY LIABILITY OR A CHARGE UPON THE GENERAL CREDIT OR
6 TAXING POWER OF THE STATE.

7 (6) THE STATE PLEDGES THAT THE BONDING FUND, INCLUDING ANY
8 SEPARATE ACCOUNT WITHIN THE BONDING FUND, SHALL BE USED ONLY
9 FOR THE PURPOSES SPECIFIED IN THIS SECTION AND IS PLEDGED FIRST TO
10 REPAY BONDS ISSUED PURSUANT TO THIS ARTICLE 42. THE STATE FURTHER
11 PLEDGES THAT ANY LAW REQUIRING THE DEPOSIT OF REVENUE IN THE
12 BONDING FUND OR AUTHORIZING EXPENDITURES FROM THE BONDING FUND
13 SHALL NOT BE AMENDED OR REPEALED OR OTHERWISE MODIFIED SO AS TO
14 IMPAIR THE BONDS TO WHICH THE BONDING FUND IS DEDICATED AS
15 PROVIDED IN THIS SECTION.

16 **40-42-106. Electric transmission authority operational fund -**
17 **creation.** THE ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND
18 IS CREATED IN THE AUTHORITY. THE OPERATIONAL FUND CONSISTS OF
19 MONEY TRANSFERRED TO THE OPERATIONAL FUND PURSUANT TO SECTION
20 40-42-105 (4), ANY OTHER MONEY THAT THE AUTHORITY MAY TRANSFER
21 TO THE OPERATIONAL FUND, AND INTEREST AND INCOME DERIVED FROM
22 THE DEPOSIT AND INVESTMENT OF MONEY IN THE OPERATIONAL FUND. THE
23 AUTHORITY MAY EXPEND MONEY FROM THE OPERATIONAL FUND FOR THE
24 PURPOSE OF CARRYING OUT THIS ARTICLE 42, AND THE AUTHORITY MAY
25 ESTABLISH PROCEDURES TO ADMINISTER THE OPERATIONAL FUND IN
26 ACCORDANCE WITH THIS ARTICLE 42 AND ANY OTHER APPLICABLE
27 PROVISION OF STATE LAW.

1 **40-42-107. Labor standards - apprenticeship - supervision.**

2 (1) THE AUTHORITY SHALL ENSURE THAT, IN ANY CONSTRUCTION,
3 EXPANSION, OR MAINTENANCE OF FACILITIES UNDERTAKEN IN COLORADO
4 PURSUANT TO THIS ARTICLE 42, ALL LABOR IS PERFORMED EITHER BY THE
5 EMPLOYEES OF AN ELECTRIC UTILITY OR BY QUALIFIED CONTRACTORS, OR
6 BOTH, AND THAT, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF
7 THIS SECTION, AN ELECTRIC UTILITY NOT USE A CONTRACTOR UNLESS:

8 (a) THE CONTRACTOR IS CHOSEN FROM A LIST OF QUALIFIED
9 CONTRACTORS PREPARED AND UPDATED, AT LEAST ANNUALLY, BY THE
10 DEPARTMENT OF LABOR AND EMPLOYMENT; AND

11 (b) THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN
12 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
13 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE
14 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE AND MEETING THE
15 ADDITIONAL CRITERIA SPECIFIED IN SUBSECTION (2) OF THIS SECTION;
16 EXCEPT THAT THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

- 17 (I) THE DESIGN, PLANNING, OR ENGINEERING OF THE FACILITIES;
18 (II) MANAGEMENT FUNCTIONS TO OPERATE THE FACILITIES; OR
19 (III) ANY WORK PERFORMED IN RESPONSE TO A WARRANTY CLAIM.

20 (2) TO QUALIFY PURSUANT TO SUBSECTION (1) OF THIS SECTION,
21 AN APPRENTICESHIP PROGRAM MUST CERTIFY TO THE ENTITY
22 COMMISSIONING THE WORK THAT:

23 (a) ITS CURRICULUM INCLUDES REQUIREMENTS FOR COMPLETION
24 OF:

25 (I) AT LEAST SEVEN THOUSAND HOURS OF ON-THE-JOB TRAINING
26 TO ACHIEVE JOURNEYMEN LINEMAN STATUS, WITH AT LEAST SIX HUNDRED
27 FIFTY OF THOSE HOURS SPENT WORKING ON ENERGIZED POWER LINES AT

1 VOLTAGES OF AT LEAST SIX HUNDRED VOLTS; AND
2 (II) A CLASS IN ELECTRIC TRANSMISSION AND DISTRIBUTION
3 OFFERED BY THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH
4 ADMINISTRATION AND COMPRISING CONTENT SUBSTANTIALLY
5 EQUIVALENT TO THAT OF THE "OSHA 10" CLASS OFFERED DURING
6 CALENDAR YEAR 2021; AND
7 (b) SUPERVISION OF APPRENTICES MEETS THE FOLLOWING
8 STANDARDS:
9 (I) APPRENTICES MUST WORK UNDER THE SUPERVISION OF A
10 JOURNEYMAN LINEMAN AT ALL TIMES;
11 (II) THE RATIO OF APPRENTICES TO JOURNEYMAN LINEMEN DOES
12 NOT EXCEED FOUR TO ONE WHEN WORKING ON A TRANSMISSION LINE OR
13 OTHER EQUIPMENT THAT IS NOT ENERGIZED; AND
14 (III) THE RATIO OF APPRENTICES TO JOURNEYMAN LINEMEN DOES
15 NOT EXCEED TWO TO ONE WHEN WORKING ON A TRANSMISSION LINE OR
16 OTHER EQUIPMENT THAT IS ENERGIZED.
17 (3) THE REQUEST FOR PROPOSAL FOR ANY CONTRACT WORK ON
18 FACILITIES SUBJECT TO THIS SECTION MUST BE SUBMITTED TO THE LIST OF
19 QUALIFIED CONTRACTORS DESCRIBED IN SUBSECTION (1)(a) OF THIS
20 SECTION FOR AT LEAST SIXTY DAYS. IF NONE OF THE CONTRACTORS ON THE
21 LIST SUBMITS A QUALIFYING BID WITHIN SIXTY DAYS, THEN THE ENTITY
22 PROCURING THE WORK MAY SOLICIT BIDS FROM CONTRACTORS WHO ARE
23 NOT ON THE LIST BUT OTHERWISE QUALIFY UNDER THE TERMS OF THE
24 REQUEST FOR PROPOSAL SO LONG AS THOSE TERMS INCLUDE COMPLIANCE
25 WITH ALL APPLICABLE LAWS AND REGULATIONS RELATED TO SAFETY.
26 **40-42-108. Report to general assembly.** COMMENCING IN 2022,
27 THE AUTHORITY SHALL SUBMIT A REPORT OF ITS ACTIVITIES TO THE

1 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF
2 REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE
3 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, NOT LATER THAN
4 DECEMBER 1 OF EACH YEAR. THE REPORT SHALL SET FORTH A COMPLETE
5 OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF
6 THE AUTHORITY FOR THE PREVIOUS STATE FISCAL YEAR.
7 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO
8 SUBMIT THE REPORT CONTINUES INDEFINITELY.

9 **SECTION 5.** In Colorado Revised Statutes, **add 2-3-126 as**
10 **follows:**

11 **2-3-126. Performance audits of Colorado electric transmission**
12 **authority.** AT THE DISCRETION OF THE LEGISLATIVE AUDIT COMMITTEE,
13 THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A
14 PERFORMANCE AUDIT OF THE COLORADO ELECTRIC TRANSMISSION
15 AUTHORITY CREATED IN ARTICLE 42 OF TITLE 40. THE STATE AUDITOR
16 SHALL PREPARE A REPORT AND RECOMMENDATIONS ON EACH AUDIT
17 CONDUCTED AND SHALL PRESENT THE REPORT AND RECOMMENDATIONS
18 TO THE COMMITTEE. THE STATE AUDITOR SHALL PAY THE COSTS OF ANY
19 AUDIT CONDUCTED PURSUANT TO THIS SECTION.

20 **SECTION 6.** In Colorado Revised Statutes, 24-65.1-501, **add**
21 **(2)(d) as follows:**

22 **24-65.1-501. Permit for development in area of state interest**
23 **or to conduct an activity of state interest required.** (2) (d) IF THE
24 DEVELOPMENT OR ACTIVITY INVOLVES THE CONSTRUCTION OR EXPANSION
25 OF TRANSMISSION FACILITIES FOR WHICH THE APPLICANT HAS SOUGHT A
26 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM THE PUBLIC
27 UTILITIES COMMISSION PURSUANT TO SECTION 40-2-126, THE LOCAL

1 GOVERNMENT SHALL APPROVE OR DENY ISSUANCE OF THE PERMIT WITHIN
2 ONE HUNDRED EIGHTY DAYS AFTER THE APPLICATION IS DEEMED
3 COMPLETE AND PUBLIC NOTICE OF THE APPLICATION IS GIVEN. IF THE
4 LOCAL GOVERNMENT DOES NOT DENY ISSUANCE OF THE PERMIT WITHIN
5 THAT PERIOD, THE APPLICATION IS DEEMED APPROVED.

6 **SECTION 7.** In Colorado Revised Statutes, 24-77-102, **amend**
7 **the introductory portion; and add (15)(b)(XIX) as follows:**

8 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
9 the context otherwise requires:

10 (15)(b) "Special purpose authority" includes, but is not limited to:
11 (XIX) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
12 CREATED IN SECTION 40-42-103 (1).

13 **SECTION 8.** In Colorado Revised Statutes, 38-1-202, **amend**
14 **(1)(f) introductory portion, (1)(f)(XXXIX), and (1)(f)(XL); and add**
15 **(1)(f)(XLI) as follows:**

16 **38-1-202. Governmental entities, corporations, and persons**
17 **authorized to use eminent domain.** (1) The following governmental
18 entities, types of governmental entities, and public corporations, in
19 accordance with all procedural and other requirements specified in this
20 article 1 and articles 2 to 7 of this title 38 and to the extent and within any
21 time frame specified in the applicable authorizing statute, may exercise
22 the power of eminent domain:

23 (f) The following types of single purpose districts, special
24 districts, authorities, boards, commissions, and other governmental
25 entities that serve limited governmental purposes or that may exercise
26 eminent domain for limited purposes: ~~on behalf of a county, city and~~
27 county, city, or town:

1 (XXXIX) A regional transportation authority created pursuant to
2 section 43-4-603 C.R.S., as authorized in section 43-4-604 (1)(a)(IV);
3 C.R.S.; and

4 (XL) The Colorado aeronautical board created in section
5 43-10-104 C.R.S., as authorized in section 43-10-106 (1); C.R.S. AND

6 (XLI) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
7 CREATED IN SECTION 40-42-103 (1) AS AUTHORIZED IN SECTION 40-42-104
8 (1)(p).

9 SECTION 9. In Colorado Revised Statutes, 38-5-104, amend (1)
10 as follows:

11 38-5-104. Right-of-way across private lands. (1) Such A
12 telegraph, telephone, electric light, power, gas, or pipeline company, AN
13 ELECTRIC TRANSMISSION AUTHORITY, or such A city or town shall be IS
14 entitled to the right-of-way over or under the land, property, privileges,
15 rights-of-way, and easements of other persons and corporations and to the
16 right to erect its poles, wires, pipes, regulator stations, substations,
17 systems, and offices upon making just compensation therefor in the
18 manner provided by law. WHEN A RIGHT-OF-WAY IS TAKEN UNDER THIS
19 SECTION FOR AN INTERSTATE ELECTRIC TRANSMISSION LINE, THE COURT
20 SHALL EVALUATE PUBLIC PURPOSE IN LIGHT OF THE TRANSMISSION SYSTEM
21 AS A WHOLE, INCLUDING PUBLIC USE AND BENEFITS OCCURRING EITHER
22 WITHIN COLORADO OR AT A REGIONAL LEVEL. The rights granted by this
23 section and section 38-5-105 to such electric light, power, gas, or pipeline
24 companies or to such cities and towns shall not extend to the taking of
25 any portion of the right-of-way of a railroad company, except to the
26 extent of acquiring any necessary easement to cross the same or to serve
27 such railroad company with electric light, power, or gas service. The

1 rights granted by this section and section 38-5-105 to telegraph or
2 telephone companies shall not extend to the taking of any portion of the
3 right-of-way of a railroad company, except to the extent of acquiring any
4 easement which does not materially interfere with the existing use by the
5 railroad company, or except to the extent of acquiring any necessary
6 easement to cross the same or to serve such railroad company with
7 telegraph or telephone service.

8 **SECTION 10.** In Colorado Revised Statutes, 40-2-114, amend
9 (2) as follows:

10 **40-2-114. Disposition of fees collected - telecommunications**
11 **utility fund - fixed utility fund.** (2) (a) ~~Moneys~~ MONEY in the funds
12 created in subsection (1) of this section shall be expended only to defray
13 the full amount determined by the general assembly for:

14 (I) The administrative expenses of the commission for the
15 supervision and regulation of the public utilities paying the fees; and for

16 (II) The financing of the office of consumer counsel created in
17 article 6.5 of this ~~title~~ TITLE 40; AND

18 (III) WITH REGARD ONLY TO EXPENDITURES FROM THE PUBLIC
19 UTILITIES COMMISSION FIXED UTILITY FUND CREATED IN SUBSECTION
20 (1)(b) OF THIS SECTION, THE ADMINISTRATIVE EXPENSES, NOT TO EXCEED
21 FIVE HUNDRED THOUSAND DOLLARS ANNUALLY, INCURRED BY THE
22 COLORADO ELECTRIC TRANSMISSION AUTHORITY IN CARRYING OUT ITS
23 DUTIES UNDER ARTICLE 42 OF THIS TITLE 40. THE COLORADO ELECTRIC
24 TRANSMISSION AUTHORITY SHALL REMIT TO THE FIXED UTILITY FUND ANY
25 AMOUNTS IT RECEIVES IN EXCESS OF ITS ACTUAL ADMINISTRATIVE
26 EXPENSES PLUS A FIFTEEN PERCENT RESERVE MARGIN.

27 (b) The state treasurer shall retain any unexpended balance

1 remaining in either fund at the end of any fiscal year to defray the
2 administrative expenses of the commission during subsequent fiscal
3 years, and the executive director of the department of revenue shall take
4 any such unexpended balance into account when computing the
5 percentage upon which fees for the ensuing fiscal year will be based.

6 **SECTION 11. Applicability.** This act applies to conduct
7 occurring on or after the effective date of this act.

8 **SECTION 12. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety.