

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 22-0105.01 Sarah Lozano x3858

HOUSE BILL 22-1104

HOUSE SPONSORSHIP

Boesenecker, Benavidez, Bernett, Bird, Cutter, Duran, Exum, Froelich, Gray, Hooton, Jodeh, Kennedy, Kipp, Lontine, Ricks, Titone, Woodrow

SENATE SPONSORSHIP

Priola,

House Committees

Transportation & Local Government

Senate Committees

Transportation & Energy

A BILL FOR AN ACT

101 CONCERNING PUBLIC RECREATIONAL TRAILS IN ELECTRIC
102 TRANSMISSION CORRIDORS OF THE STATE, AND, IN CONNECTION
103 THEREWITH, ENCOURAGING TRANSMISSION PROVIDERS TO
104 ENTER INTO WRITTEN AGREEMENTS FOR THE CONSTRUCTION
105 AND MAINTENANCE OF POWERLINE TRAILS AND REQUIRING
106 TRANSMISSION PROVIDERS TO PROVIDE INFORMATIONAL
107 RESOURCES AND NOTIFY LOCAL GOVERNMENTS REGARDING THE
108 POTENTIAL FOR POWERLINE TRAILS WHEN PLANNING FOR THE
109 EXPANSION OR CONSTRUCTION OF TRANSMISSION CORRIDORS.

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
Amended 2nd Reading
March 18, 2022

HOUSE
3rd Reading Unamended
February 24, 2022

HOUSE
SPONSORSHIP

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

The bill:

- Allows transmission providers to enter into contracts with public entities or private landowners to construct and maintain public recreational trails (powerline trails) covering a tract of land where transmission lines are or will be constructed (transmission corridor);
- Allows transmission providers to include certain contractual provisions in powerline trail contracts;
- Allows transmission providers to recover costs incurred in implementing and complying with the bill through an increase in rates;
- Requires transmission providers to develop and maintain informational resources to encourage the construction of new powerline trails;
- Requires a transmission provider, when siting or expanding a transmission line, to notify local governments of the potential for a powerline trail in the associated transmission corridor;
- Requires a transmission provider, when applying for a permit with a local government to develop in an area of state interest, to demonstrate compliance with the requirement to notify local governments of the potential for a powerline trail and to develop and maintain informational resources encouraging construction of new powerline trails;
- Requires the public utilities commission to amend its rules to also require electric public utilities in the state to consider plans for the construction of new powerline trails and with the requirement to develop and maintain informational resources on powerline trails;
- Requires the Colorado electric transmission authority (CETA) to arrange for the continuation of any existing powerline trail contracts before entering into a project or divesting a facility; and
- Requires the CETA to give priority for project solicitations to electric utilities and other entities that demonstrate an interest in continuing or creating a powerline trail.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly

1 hereby finds and declares that:

2 (a) Outdoor recreation is an essential component of Colorado's
3 identity and economy and is vital to the health and enjoyment of
4 Coloradans;

5 (b) Transmission lines deliver electricity to Colorado's cities and
6 towns, and adding recreational trails in the corridors underneath those
7 transmission lines could provide additional community value and
8 benefits; and

9 (c) These recreational trails, known as powerline trails, can:

10 (I) Provide a network of safe and enjoyable routes to work and
11 school or for a recreational purpose;

12 (II) Reduce the land acquisition costs of new recreational trails;

13 (III) Bring new outdoor recreation opportunities and tourism to
14 rural areas of Colorado;

15 (IV) Provide access to scenic landscapes and cultural features of
16 Colorado; and

17 (V) Provide sustainable community connections.

18 (2) The general assembly therefore declares that the development
19 of powerline trails in the state should be encouraged, facilitated, and
20 accelerated while protecting the safety of the state's residents.

21 **SECTION 2.** In Colorado Revised Statutes, **add** article 45 to title
22 33 as follows:

23 **ARTICLE 45**

24 **Powerline Trails**

25 **33-45-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 45 IS
26 THE "POWERLINE TRAILS ACT".

27 **33-45-102. Definitions.** AS USED IN THIS ARTICLE 45, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

2 (1) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF
3 THE STATE OF COLORADO.

4 (2) "DISTRICT" MEANS A SPECIAL DISTRICT, LOCAL IMPROVEMENT
5 DISTRICT, SCHOOL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE
6 STATE.

7 (3) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY
8 MUNICIPALITY, COUNTY, OR CITY AND COUNTY.

9 (4) "LOCAL IMPROVEMENT DISTRICT" HAS THE MEANING SET
10 FORTH IN SECTION 32-7-103 (7).

11 (5) "POWERLINE TRAIL" MEANS A MULTIMODAL TRAIL THAT IS:

12 (a) EIGHT FEET IN WIDTH OR WIDER;

13 (b) MADE OF HARD SURFACE SUCH AS CONCRETE OR COMPACTED
14 GRAVEL;

15 (c) USED FOR RECREATIONAL PURPOSES OR COMMUTING IN A
16 MANNER THAT DOES NOT INVOLVE A MOTOR VEHICLE; AND

17 (d) LOCATED IN AN EXISTING OR FUTURE TRANSMISSION
18 CORRIDOR.

19 (6) "PUBLIC ENTITY" MEANS THE STATE, A LOCAL GOVERNMENT,
20 OR A DISTRICT.

21 (7) (a) "RECREATIONAL PURPOSE" INCLUDES WALKING, RUNNING,
22 BICYCLING, CLASS 1 OR CLASS 2 ELECTRICAL ASSISTED BICYCLING,
23 EQUESTRIAN ACTIVITIES, USE OF ELECTRIC SCOOTERS, CROSS-COUNTRY
24 SKIING, OR OTHER SIMILAR USES.

25 (b) "RECREATIONAL PURPOSE" DOES NOT INCLUDE THE USE OF A
26 MOTOR VEHICLE OR OTHER SELF-PROPELLED VEHICLE THAT IS NOT AN
27 ELECTRICAL ASSISTED BICYCLE, ELECTRIC SCOOTER, LOW-POWER

1 SCOOTER, OR MOTORIZED WHEELCHAIR, AS THOSE TERMS ARE DEFINED IN
2 SECTION 42-1-102.

3 (8) "SCHOOL DISTRICT" HAS THE MEANING SET FORTH IN SECTION
4 22-11-103 (29).

5 (9) "SPECIAL DISTRICT" HAS THE MEANING SET FORTH IN SECTION
6 32-1-103 (20).

7

8 (10) "TRANSMISSION CORRIDOR" MEANS A TRACT OF LAND OWNED,
9 OCCUPIED, OR LEASED BY A TRANSMISSION PROVIDER, OR COVERED BY AN
10 EASEMENT OR RIGHT-OF-WAY HELD BY A TRANSMISSION PROVIDER, WHERE
11 AN ELECTRIC TRANSMISSION LINE IS CONSTRUCTED, OPERATED, OR
12 MAINTAINED AT A VOLTAGE OF SIXTY-NINE THOUSAND VOLTS OR ABOVE.

13 (11) (a) "TRANSMISSION PROVIDER" MEANS:

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

16 (II) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
17 CREATED IN SECTION 40-42-103 (1).

18 (b) "TRANSMISSION PROVIDER" DOES NOT INCLUDE A MUNICIPALLY
19 OWNED UTILITY, A POWER AUTHORITY ESTABLISHED PURSUANT TO
20 SECTION 29-1-204 (1), OR A COOPERATIVE ELECTRIC ASSOCIATION, AS
21 DEFINED IN SECTION 40-9.5-102 (1), THAT HAS VOTED TO EXEMPT ITSELF
22 FROM THE "PUBLIC UTILITIES LAW", ARTICLES 1 TO 7 OF TITLE 40,
23 PURSUANT TO SECTION 40-9.5-103.

24 **33-45-103. Powerline trails - written contracts - informational**
25 **resources - coordination with division of parks and wildlife.** (1) A
26 TRANSMISSION PROVIDER, AS THE OWNER, OCCUPANT, OR LESSEE OF A
27 TRANSMISSION CORRIDOR OR THE HOLDER OF AN EASEMENT OR

1 RIGHT-OF-WAY COVERING A TRANSMISSION CORRIDOR, MAY ENTER INTO
2 A WRITTEN CONTRACT WITH A PUBLIC ENTITY OR PRIVATE LANDOWNER TO
3 CONSTRUCT AND MAINTAIN A POWERLINE TRAIL COVERING ALL OR SOME
4 OF THE TRANSMISSION CORRIDOR.

5 [REDACTED]

6 (2) BEGINNING NO LATER THAN MAY 1, 2023, ALL TRANSMISSION
7 PROVIDERS SHALL DEVELOP, MAINTAIN, AND DISTRIBUTE INFORMATIONAL
8 RESOURCES TO ENCOURAGE, FACILITATE, AND STREAMLINE THE
9 CONSTRUCTION OF NEW POWERLINE TRAILS IN TRANSMISSION CORRIDORS
10 THAT ARE SUITABLE FOR THE CONSTRUCTION AND MAINTENANCE OF A
11 POWERLINE TRAIL. SUCH INFORMATIONAL RESOURCES, AT A MINIMUM,
12 MUST:

13 (a) INCLUDE THE FOLLOWING:

14 (I) DESIGN BEST PRACTICES;

15 (II) SAFETY REQUIREMENTS; AND

16 [REDACTED]

17 (III) EXAMPLES OF AT LEAST FOUR POWERLINE TRAILS IN THE
18 STATE;

19 (b) BE PUBLICLY AVAILABLE ON THE TRANSMISSION PROVIDER'S
20 WEBSITE;

21 (c) TO THE EXTENT POSSIBLE, BE CONSISTENT WITH OTHER
22 RESOURCES FROM TRANSMISSION PROVIDERS IN THE STATE;

23 (d) BE REVIEWED AND REVISED PERIODICALLY BY THE
24 TRANSMISSION PROVIDER; AND

25 (e) BE PROVIDED TO LOCAL GOVERNMENTS PURSUANT TO SECTION
26 29-20-108 (6).

27 (3) IN THE DESIGN AND CONSTRUCTION OF A POWERLINE TRAIL, A

1 PUBLIC ENTITY SHALL CONSULT AND COORDINATE WITH THE DIVISION OF
2 PARKS AND WILDLIFE TO MINIMIZE ADVERSE IMPACTS TO:

3 (a) STATE AND FEDERALLY LISTED SPECIES; AND

4 (b) SPECIES AND HABITATS OF CONSERVATION CONCERN.

5 (4) PRIOR TO CONSTRUCTING A POWERLINE TRAIL IN AN AREA OF
6 SIGNIFICANT RURAL CHARACTER, A PUBLIC ENTITY SHALL CONSIDER ANY
7 ISSUES UNIQUE TO THE AREA, INCLUDING ISSUES RELATED TO:

8 (a) GRAZING;

9 (b) WILDLIFE IMPACTS NOT ADDRESSED UNDER SUBSECTION (3) OF
10 THIS SECTION; AND

11 (c) THE POTENTIAL LIABILITY OF PUBLIC OR PRIVATE LANDOWNERS
12 ADJACENT TO OR INCLUSIVE OF A TRANSMISSION CORRIDOR.

13 (5) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NOTHING IN
14 THIS SECTION:

15 (a) LIMITS THE PROTECTIONS PROVIDED TO A LANDOWNER UNDER
16 SECTION 13-21-115 AND ARTICLE 41 OF THIS TITLE 33;

17 (b) LIMITS THE PROTECTIONS PROVIDED TO A PUBLIC ENTITY
18 UNDER THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF
19 TITLE 24;

20 (c) REQUIRES A TRANSMISSION PROVIDER TO ALLOW A POWERLINE
21 TRAIL OR ANY OTHER FACILITY ON ITS TRANSMISSION CORRIDOR;

22 (d) REQUIRES A PUBLIC OR PRIVATE LANDOWNER WHOSE
23 PROPERTY IS ADJACENT TO OR INCLUSIVE OF A TRANSMISSION CORRIDOR
24 TO ALLOW PUBLIC ACCESS TO ANY PORTION OF THE LANDOWNER'S
25 PROPERTY;

26 (e) MODIFIES EXISTING PROCESSES RELATED TO PERMITS FOR USE
27 OF PUBLIC LAND FOR GRAZING OR OTHER USES;

1 (f) LIMITS THE PROTECTIONS PROVIDED TO TRANSMISSION
2 PROVIDERS UNDER SECTION 29-7.5-105; AND

3 (g) RELIEVES ANY PERSON FROM ANY OBLIGATION THAT PERSON
4 MAY OTHERWISE HAVE IN THE ABSENCE OF THIS SECTION TO EXERCISE
5 CARE IN THE USE OF A POWERLINE TRAIL OR FROM THE LEGAL
6 CONSEQUENCES OF THE FAILURE TO EXERCISE SUCH CARE.

7 **SECTION 3.** In Colorado Revised Statutes, 24-65.1-501, **add** (7)
8 as follows:

9 **24-65.1-501. Permit for development in area of state interest**
10 **or to conduct an activity of state interest required.** (7) AS PART OF AN
11 APPLICATION FOR A PERMIT UNDER SUBSECTION (1) OF THIS SECTION, A
12 TRANSMISSION PROVIDER, AS DEFINED IN SECTION 33-45-102 (11), MUST
13 DEMONSTRATE TO THE LOCAL GOVERNMENT THROUGH WRITTEN
14 DOCUMENTATION THAT IT HAS COMPLIED WITH SECTIONS 29-20-108 (6)
15 AND 33-45-103 (2).

16 **SECTION 4.** In Colorado Revised Statutes, 29-20-108, **amend**
17 (3); and **add** (6) as follows:

18 **29-20-108. Local government regulation - location,**
19 **construction, or improvement of major electrical or natural gas**
20 **facilities - powerline trail notification - legislative declaration -**
21 **definitions.** (3) As used in this section, UNLESS THE CONTEXT OTHERWISE
22 REQUIRES:

23 (a) "Major electrical or natural gas facilities" includes one or more
24 of the following:

25 ~~(a)~~ (I) Electrical generating facilities;

26 ~~(b)~~ (II) Substations used for switching, regulating, transforming,
27 or otherwise modifying the characteristics of electricity;

1 (ⓔ) (III) Transmission lines operated at a nominal voltage of
2 sixty-nine thousand volts or above;

3 (ⓓ) (IV) Structures and equipment associated with such electrical
4 generating facilities, substations, or transmission lines; or

5 (ⓔ) (V) Structures and equipment utilized for the local distribution
6 of natural gas service, including, but not limited to, compressors, gas
7 mains, and gas laterals.

8 (b) "POWERLINE TRAIL" HAS THE MEANING SET FORTH IN SECTION
9 33-45-102 (5).

10 (c) "TRANSMISSION CORRIDOR" HAS THE MEANING SET FORTH IN
11 SECTION 33-45-102 (10).

12 (d) "TRANSMISSION PROVIDER" HAS THE MEANING SET FORTH IN
13 SECTION 33-45-102 (11).

14 (6) (a) WHEN NOTIFYING A LOCAL GOVERNMENT OF ITS PLANS TO
15 SITE A NEW TRANSMISSION LINE OR EXPAND AN EXISTING TRANSMISSION
16 LINE UNDER THIS SECTION, A TRANSMISSION PROVIDER SHALL ALSO NOTIFY
17 THE LOCAL GOVERNMENT OF THE POTENTIAL FOR THE CONSTRUCTION OF
18 A POWERLINE TRAIL IN THE ASSOCIATED TRANSMISSION CORRIDOR. ANY
19 NOTIFICATION UNDER THIS SUBSECTION (6)(a) MUST INCLUDE THE
20 INFORMATIONAL RESOURCES DEVELOPED UNDER SECTION 33-45-103 (2).

21 (b) A TRANSMISSION PROVIDER IS ONLY REQUIRED TO NOTIFY A
22 LOCAL GOVERNMENT OF THE POTENTIAL FOR THE CONSTRUCTION OF A
23 POWERLINE TRAIL UNDER SUBSECTION (6)(a) OF THIS SECTION IF:

24 (I) THE TRANSMISSION LINE WILL BE EXTENDED BY MORE THAN
25 ONE MILE; OR

26 (II) THE TRANSMISSION LINE CAPACITY WILL BE INCREASED BY
27 MORE THAN TEN PERCENT.

1 **SECTION 5.** In Colorado Revised Statutes, 40-2-126, **amend** (1);
2 and **add** (6) as follows:

3 **40-2-126. Transmission facilities - biennial review - energy**
4 **resource zones - definitions - plans - approval - cost recovery.** (1) As
5 used in this section, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 (a) "Energy resource zone" means a geographic area in which
7 transmission constraints hinder the delivery of electricity to Colorado
8 consumers, the development of new electric generation facilities to serve
9 Colorado consumers, or both.

10 (b) "LOCAL GOVERNMENT" HAS THE MEANING SET FORTH IN
11 SECTION 33-45-102 (3).

12 (c) "POWERLINE TRAIL" HAS THE MEANING SET FORTH IN SECTION
13 33-45-102 (5).

14 (6) THE COMMISSION SHALL AMEND ITS RULES REQUIRING THE
15 FILING OF TEN-YEAR TRANSMISSION PLANS BY UTILITIES TO ALSO REQUIRE
16 UTILITIES TO:

17 (a) CONSIDER AND ADDRESS PLANS FOR THE CONSTRUCTION OF
18 NEW POWERLINE TRAILS IN COORDINATION WITH APPLICABLE LOCAL
19 GOVERNMENTS IN EACH TWO-YEAR UPDATE TO A TEN-YEAR TRANSMISSION
20 PLAN; AND

21 (b) DEMONSTRATE COMPLIANCE WITH SECTION 33-45-103 (2).

22 **SECTION 6.** In Colorado Revised Statutes, 40-42-102, **add**
23 (13.5) as follows:

24 **40-42-102. Definitions.** As used in this article 42, unless the
25 context otherwise requires:

26 (13.5) "POWERLINE TRAIL" HAS THE MEANING SET FORTH IN
27 SECTION 33-45-102 (5).

1 **SECTION 7.** In Colorado Revised Statutes, 40-42-104, **amend**
2 (1)(g)(II), (1)(g)(III), (1)(n), and (3); and **add** (1)(g)(IV), (2)(f), and (5)(e)
3 as follows:

4 **40-42-104. General and specific powers and duties of the**
5 **authority.** (1) Except as otherwise limited by this article 42, the
6 authority, acting through the board, has the power to:

7 (g) Make and enter into all contracts, leases, and agreements,
8 including intergovernmental agreements and assignments of payments to
9 host landowners, that are necessary or incidental to the performance of its
10 duties and the exercise of its powers under this article 42, including:

11 (II) Contracts for the lease and operation by the authority of
12 eligible facilities owned by an electric utility or other private person; ~~and~~

13 (III) Contracts for leasing eligible facilities owned by the
14 authority, subject to the requirement that the authority deposit any
15 revenue derived pursuant to the lease into the electric transmission
16 bonding fund; AND

17 (IV) CONTRACTS FOR POWERLINE TRAILS PURSUANT TO SECTION
18 33-45-103;

19 (n) Through participation in appropriate regional transmission
20 forums and other organizations, including organized wholesale markets,
21 as defined in section 40-5-108 (1)(a), coordinate, investigate, plan,
22 prioritize, and negotiate with entities within and outside Colorado for the
23 establishment of interstate transmission corridors and engage in other
24 transmission planning activities that would increase grid reliability, help
25 Colorado meet its clean energy goals, PROMOTE THE CONSTRUCTION AND
26 MAINTENANCE OF POWERLINE TRAILS THROUGHOUT THE STATE, and aid
27 in economic AND COMMUNITY development;

1 (2) Except as provided in this subsection (2), the authority shall
2 not enter into a project if an electric utility or a nonincumbent
3 transmission provider or other entity is constructing or has constructed the
4 facilities or is providing the services contemplated by the authority.
5 Before the authority enters into a project, the following procedural
6 requirements must be met:

7 (f) THE AUTHORITY MUST ARRANGE FOR THE CONTINUATION OF
8 ANY EXISTING CONTRACTS FOR POWERLINE TRAILS ENTERED INTO
9 PURSUANT TO SECTION 33-45-103.

10 (3) In soliciting and entering into contracts for the transmission or
11 storage of electricity, the authority and any person leasing or operating
12 eligible facilities financed or acquired by the authority shall, if
13 practicable, give priority to:

14 (a) Those contracts that will transmit or store electricity to be sold
15 and consumed in Colorado; AND

16 (b) ELECTRIC UTILITIES OR OTHER ENTITIES THAT DEMONSTRATE
17 AN INTEREST IN CONTINUING AN EXISTING POWERLINE TRAIL ESTABLISHED
18 BY THE AUTHORITY OR CONSTRUCTING AND MAINTAINING A NEW
19 POWERLINE TRAIL ON THE ELIGIBLE FACILITIES.

20 (5) (e) THE AUTHORITY MUST ARRANGE FOR THE CONTINUATION
21 OF ANY EXISTING CONTRACTS FOR POWERLINE TRAILS ENTERED INTO
22 PURSUANT TO SECTION 33-45-103 IF IT DIVESTS ITSELF OF AN ELIGIBLE
23 FACILITY.

24 **SECTION 8.** In Colorado Revised Statutes, 32-9-103, **amend** the
25 introductory portion and (6.9) as follows:

26 **32-9-103. Definitions.** As used in this ~~article~~ ARTICLE 9, unless
27 the context otherwise requires:

1 (6.9) "Major electrical facilities" ~~shall have~~ HAS the same meaning
2 as set forth in ~~section 29-20-108 (3)(a), (3)(b), (3)(c), and (3)(d), C.R.S.~~
3 SECTION 29-20-108 (3)(a)(I), (3)(a)(II), (3)(a)(III), AND (3)(a)(IV).

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