

CHAPTER 72

TRANSPORTATION

SENATE BILL 22-083

BY SENATOR(S) Coram, Bridges, Buckner, Donovan, Fields, Ginal, Gonzales, Hansen, Hinrichsen, Lee, Moreno, Pettersen, Priola, Rankin, Simpson, Sonnenberg, Zenzinger, Fenberg;
also REPRESENTATIVE(S) Catlin and Bird, Bernett, Bockenfeld, Boesenecker, Exum, Gray, Herod, Lindsay, Lontine, McCluskie, McLachlan, Michaelson Jenet, Mullica, Pico, Rich, Roberts, Sandridge, Snyder, Titone, Valdez A., Valdez D.

AN ACT**CONCERNING A BROADBAND PROVIDER'S USE OF THE PUBLIC RIGHTS-OF-WAY.**

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

SECTION 1. In Colorado Revised Statutes, 43-1-1204, **amend** (5) as follows:

43-1-1204. Public-private initiative agreement - definition. (5) (a) EXCEPT AS PROVIDED IN SUBSECTION (5)(b) OF THIS SECTION:

(I) The department shall not enter into any exclusive arrangement, lease, or other agreement for use of the public rights-of-way by a telecommunications provider that in any way discriminates or prevents a similar arrangement being made with any other telecommunications provider;

(II) All leases of rights-of-way to telecommunications providers must be done on a nondiscriminatory same-term basis; AND

(III) If a telecommunications provider compensates the state in other than cash, a cash equivalent value must be imputed and attached to the agreement, and any other telecommunications provider may have equal access to the right-of-way for the cash equivalent. The cash equivalent shall be an estimate of the fair market value of the service or product provided to the state, and a telecommunications provider may ask a court of competent jurisdiction to review the imputed monetary amount, which the court may lower to the reasonable fair market value if necessary.

(b) BY AUGUST 30, 2022, THE DEPARTMENT SHALL DEVELOP A UNIFORM ELECTRONIC APPLICATION, PERMITTING, CONTRACT, AND FEE STRUCTURE TO

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

FACILITATE NONGOVERNMENTAL ENTITIES' ACCESS TO PUBLIC RIGHTS-OF-WAY AND FIBER LEASE OR SWAP FOR THE DEPLOYMENT OF BROADBAND.

(c) (I) ACCEPTANCES AND DENIALS BY THE DEPARTMENT PURSUANT TO SUBSECTIONS (5)(a) AND (5)(b) OF THIS SECTION SHALL BE PROVIDED BY THE DEPARTMENT TO A BROADBAND PROVIDER IN WRITING AND SHALL IDENTIFY SPECIFIC REASONS FOR THE APPROVAL OR THE DENIAL. THE DEPARTMENT SHALL ALSO MAKE AVAILABLE TO THE PUBLIC THE WRITTEN APPROVAL OR DENIAL REQUIRED BY THIS SUBSECTION (5)(c)(I) IN AN ONLINE ELECTRONIC FORMAT.

(II) AS USED IN THIS SECTION, "BROADBAND PROVIDER" HAS THE MEANING SET FORTH IN SECTION 38-5.5-102 (3).

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 7, 2022