

CHAPTER 128

GOVERNMENT - LOCAL

HOUSE BILL 99-1134

BY REPRESENTATIVES Hagedorn, Coleman, Dean, Sullivant, S. Williams, and Young;
also SENATORS Wattenberg, Chlouber, Hernandez, and Phillips.

AN ACT

CONCERNING THE FUNDING OF UNDERGROUND CONVERSION OF OVERHEAD PUBLIC UTILITIES.

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

SECTION 1. 29-8-102, Colorado Revised Statutes, is amended to read:

29-8-102. Legislative declaration. The general assembly finds that landowners, cities, towns, counties, ~~and~~ public utilities, AND CABLE OPERATORS in many areas of the state desire to convert existing overhead electric and communication facilities to underground locations. ~~by means of improvement district proceedings.~~ THE GENERAL ASSEMBLY FURTHER FINDS THAT THE CONVERSION OF OVERHEAD ELECTRIC AND COMMUNICATION FACILITIES TO UNDERGROUND LOCATIONS IS A MATTER OF STATEWIDE CONCERN AND INTEREST. The general assembly declares that a public purpose will be served by providing a procedure to accomplish such conversion and that it is in the public interest to provide for such conversion by proceedings taken under this article, whether such areas are within the limits of a city or town or within a county. THE GENERAL ASSEMBLY FURTHER DECLARES THAT ALL POLITICAL SUBDIVISIONS SHALL PURSUE SUCH CONVERSION ONLY IN ACCORDANCE WITH THIS ARTICLE; EXCEPT THAT THE USE OF THE PROCEDURE SET FORTH IN THIS ARTICLE IS PERMISSIVE AND NOT MANDATORY FOR INCIDENTAL AND EPISODIC CONVERSIONS ASSOCIATED WITH PUBLIC IMPROVEMENTS SUCH AS STREET WIDENING OR SEWER CONSTRUCTION. NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE, A POLITICAL SUBDIVISION SHALL BE ABLE TO PERFORM SUCH UNDERGROUND CONVERSION WITHOUT FOLLOWING THE PROCEDURES OUTLINED IN THIS ARTICLE IF THE POLITICAL SUBDIVISION PAYS FOR ALL OF THE COSTS AND EXPENSES OF SUCH CONVERSION FROM THE POLITICAL SUBDIVISION'S OWN FUNDS ON THE CONDITION THAT THE POLITICAL SUBDIVISION DOES NOT SEEK TO RECOVER THE COSTS OR EXPENSES OF SUCH CONVERSION FROM THE PUBLIC UTILITY OR CABLE OPERATOR.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 29-8-103 (1), Colorado Revised Statutes, is amended, and the said 29-8-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

29-8-103. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Communication service" means the transmission of intelligence by electrical means, including, but not limited to, telephone, telegraph, messenger-call, block, police, fire alarm, and traffic control circuits or the transmission of television or radio signals.~~ "CABLE OPERATOR" SHALL HAVE THE SAME MEANING AS SET FORTH IN THE FEDERAL "CABLE COMMUNICATIONS POLICY ACT OF 1984", AS AMENDED, 47 U.S.C. SEC. 522.

(1.5) "COMMUNICATION SERVICE" MEANS THE TRANSMISSION OF INTELLIGENCE BY ELECTRICAL MEANS, INCLUDING, BUT NOT LIMITED TO, TELEPHONE, TELEGRAPH, MESSENGER-CALL, BLOCK, POLICE, FIRE ALARM, AND TRAFFIC CONTROL CIRCUITS OR THE TRANSMISSION OF TELEVISION OR RADIO SIGNALS.

(7.5) "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY AND COUNTY, CITY, TOWN, HOME RULE CITY, HOME RULE TOWN, SERVICE AUTHORITY, SCHOOL DISTRICT, LOCAL IMPROVEMENT DISTRICT, LAW ENFORCEMENT AUTHORITY, ANY SPECIAL DISTRICT SUCH AS WATER, SANITATION, FIRE PROTECTION, METROPOLITAN, IRRIGATION, OR DRAINAGE, OR ANY OTHER KIND OF MUNICIPAL, QUASI-MUNICIPAL, OR PUBLIC CORPORATION ORGANIZED PURSUANT TO LAW.

SECTION 3. Part 1 of article 9.5 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-9.5-117. Surcharge for underground conversion of facilities. THE BOARD OF DIRECTORS OF A COOPERATIVE ELECTRIC ASSOCIATION MAY ADOPT A RESOLUTION TO IMPOSE A SURCHARGE ON THOSE CONSUMERS WITHIN THE SERVICE AREA OF THE COOPERATIVE ELECTRIC ASSOCIATION WHO DERIVE A DIRECT BENEFIT FROM THE CONVERSION OF OVERHEAD ELECTRIC AND COMMUNICATION FACILITIES TO UNDERGROUND LOCATIONS. SUCH SURCHARGE SHALL BE LIMITED TO COSTS RELATED TO THE CONVERSION OF OVERHEAD ELECTRIC AND COMMUNICATION FACILITIES TO UNDERGROUND LOCATIONS.

SECTION 4. 29-8-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

29-8-104. Powers conferred. (2) THE GOVERNING BODY OF EVERY MUNICIPAL UTILITY MAY, BY RESOLUTION OR ORDINANCE, IMPOSE A SURCHARGE ON THOSE CONSUMERS WITHIN SUCH MUNICIPAL UTILITY'S SERVICE AREA WHO DERIVE A DIRECT BENEFIT FROM THE CONVERSION OF OVERHEAD ELECTRIC AND COMMUNICATION FACILITIES TO UNDERGROUND LOCATIONS.

SECTION 5. Article 8 of title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

29-8-137.5. Applicability to cable operators. THIS ARTICLE SHALL APPLY TO THE OVERHEAD COMMUNICATION FACILITIES OF CABLE OPERATORS, AND THOSE PROVISIONS THAT REFER TO A PUBLIC UTILITY OR PUBLIC UTILITIES SHALL ALSO APPLY TO CABLE OPERATORS.

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.

Approved: April 22, 1999