

CHAPTER 75

PUBLIC UTILITIES

SENATE BILL 07-006

BY SENATOR(S) Takis, Isgar, May R., and Williams;
also REPRESENTATIVE(S) Kerr J., Borodkin, Green, McFadyen, Pommer, and Rose.

AN ACT

CONCERNING AUTHORIZATION FOR THE ABOLITION OF A REDUNDANT, NONSIGNALIZED, AND UNATTENDED AT-GRADE RAILROAD CROSSING WITHOUT A HEARING BEFORE THE PUBLIC UTILITIES COMMISSION.

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

SECTION 1. 40-4-106 (3) (a), Colorado Revised Statutes, is amended to read:

40-4-106. Rules for public safety - crossings - allocation of expenses.

(3) (a) (I) The commission also has power upon its own motion or upon complaint and after hearing, of which all the parties in interest including the owners of adjacent property shall have due notice, to order any crossing constructed at grade or at the same or different levels, to be relocated, altered, or abolished, according to plans and specifications to be approved and upon just and reasonable terms and conditions to be prescribed by the commission, and to prescribe the terms upon which the separation should be made and the proportion in which the expense of the alteration or abolition of the crossing or the separation of the grade should be divided between the railroad corporations affected or between the corporation and the state, county, municipality, or public authority in interest.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE AFFECTED RAILROAD CORPORATION, THE COMMISSION, THE DEPARTMENT OF TRANSPORTATION, OR THE LOCAL GOVERNMENT RESPONSIBLE FOR SUPERVISING AND MAINTAINING THE INTERSECTING PUBLIC HIGHWAY OR ROAD MAY ABOLISH ANY CROSSING AT GRADE OF ANY PUBLIC HIGHWAY OR ROAD OVER THE TRACKS OF A CORPORATION IF:

(A) THE CROSSING IS WITHOUT GATES, SIGNALS, ALARM BELLS, OR WARNING PERSONNEL AND IS LOCATED WITHIN ONE-QUARTER MILE OF A CROSSING WITH

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

GATES, SIGNALS, ALARM BELLS, OR WARNING PERSONNEL OR A SEPARATED GRADE CROSSING;

(B) THE CROSSING IS NOT THE ONLY CROSSING THAT PROVIDES ACCESS TO PROPERTY;

(C) NO LESS THAN SIXTY DAYS PRIOR TO THE PROPOSED ABOLITION DATE, THE RAILROAD CORPORATION, COMMISSION, DEPARTMENT OF TRANSPORTATION, OR LOCAL GOVERNMENT POSTS CONSPICUOUS NOTICE OF THE PROPOSED ABOLITION AT THE CROSSING AND GIVES WRITTEN NOTICE OF THE PROPOSED ABOLITION TO ALL OTHER ENTITIES AUTHORIZED TO INITIATE ABOLITION OF THE CROSSING PURSUANT TO THIS SUBPARAGRAPH (II); AND

(D) NEITHER ANY ENTITY GIVEN NOTICE NOR ANY OTHER INTERESTED PARTY FILES AN OBJECTION TO THE ABOLITION PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (a).

(III) A CROSSING SHALL NOT BE ABOLISHED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) IF AN ENTITY GIVEN NOTICE PURSUANT TO SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) OR ANY OTHER INTERESTED PARTY, WITHIN SIXTY DAYS OF RECEIVING SUCH NOTICE, FILES WITH THE COMMISSION AND PROVIDES TO THE ENTITY THAT GAVE NOTICE OF THE PROPOSED ABOLITION A WRITTEN OBJECTION TO THE ABOLITION. THE WRITTEN OBJECTION SHALL INCLUDE A STATEMENT BY A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN COLORADO THAT INDICATES THAT THE ENGINEER IS FAMILIAR WITH THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) AND ALL RELEVANT ASPECTS OF THE CROSSING AND HAS EXAMINED THE CROSSING AND BELIEVES THAT IT IS SAFE AS DESIGNED. HOWEVER, NOTHING IN THIS SUBPARAGRAPH (III) SHALL PRECLUDE THE ABOLITION OF THE CROSSING PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 2, 2007