

Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 04-0850.01 Jery Payne

HOUSE BILL 04-1348

HOUSE SPONSORSHIP

Mitchell,

SENATE SPONSORSHIP

McElhany,

House Committees

Transportation & Energy

Senate Committees

Business Affairs & Labor

A BILL FOR AN ACT

101 CONCERNING STANDARDS FOR PERMISSIBLE NOISE FROM ELECTRIC
102 TRANSMISSION FACILITIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Sets statewide standards for permissible noise from electric transmission facilities. Shields from liability for noise the owner or operator of a facility that complies with such standards.

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

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

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

SENATE
Amended 2nd Reading
March 25, 2004

HOUSE
3rd Reading Unamended
February 25, 2004

HOUSE
Amended 2nd Reading
February 24, 2004

1 finds and declares that it is a matter of statewide interest and concern that
2 the State of Colorado have an adequate, reliable, and cost-effective
3 electricity infrastructure to serve the needs of the people of Colorado for
4 their homes, businesses, and industries. The general assembly further
5 finds that electric transmission facilities are linear and may pass through
6 several local jurisdictions and zoning districts including residential,
7 commercial, light industrial, and industrial. Because of considerable
8 uncertainty as to the application of article 12 of title 25, Colorado
9 Revised Statutes, concerning noise abatement, to electric transmission
10 facilities, local laws addressing noise abatement may interfere with the
11 needed construction and operation of electric transmission facilities that
12 serve multiple local jurisdictions. Therefore, the general assembly finds
13 that statewide noise standards need to be determined and applied to
14 electric transmission facilities.

15 **SECTION 2.** 25-12-103, Colorado Revised Statutes, is amended
16 BY THE ADDITION OF A NEW SUBSECTION to read:

17 **25-12-103. Maximum permissible noise levels.**
18 (12) (a) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, THE PUBLIC
19 UTILITIES COMMISSION MAY DETERMINE, WHILE REVIEWING UTILITY
20 APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY
21 FOR ELECTRIC TRANSMISSION FACILITIES, WHETHER PROJECTED NOISE
22 LEVELS FOR ELECTRIC TRANSMISSION FACILITIES ARE REASONABLE. SUCH
23 DETERMINATION SHALL TAKE INTO ACCOUNT CONCERNS RAISED BY
24 PARTICIPANTS IN THE COMMISSION PROCEEDING AND THE ALTERNATIVES
25 AVAILABLE TO A UTILITY TO MEET THE NEED FOR ELECTRIC TRANSMISSION
26 FACILITIES. WHEN APPLYING, THE UTILITY SHALL PROVIDE NOTICE OF ITS
27 APPLICATION TO ALL MUNICIPALITIES AND COUNTIES WHERE THE PROPOSED

1 ELECTRIC TRANSMISSION FACILITIES WILL BE LOCATED. THE _____
2 PUBLIC UTILITIES COMMISSION SHALL AFFORD THE PUBLIC AN
3 OPPORTUNITY TO PARTICIPATE IN ALL PROCEEDINGS IN WHICH PERMISSIBLE
4 NOISE LEVELS ARE ESTABLISHED ACCORDING TO THE "PUBLIC UTILITIES
5 LAW", ARTICLES 1 TO 7 OF TITLE 40, C.R.S. _____

6 (b) BECAUSE OF THE STATEWIDE NEED FOR RELIABLE ELECTRIC
7 SERVICE AND THE PUBLIC BENEFIT PROVIDED BY ELECTRIC TRANSMISSION
8 FACILITIES, NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO
9 MUNICIPALITY OR COUNTY MAY ADOPT AN ORDINANCE OR RESOLUTION
10 SETTING NOISE STANDARDS FOR ELECTRIC TRANSMISSION FACILITIES THAT
11 ARE MORE RESTRICTIVE THAN THIS SUBSECTION (12). THE OWNER OR
12 OPERATOR OF AN ELECTRIC TRANSMISSION FACILITY SHALL NOT BE LIABLE
13 IN A CIVIL ACTION BASED UPON NOISE EMITTED BY ELECTRIC
14 TRANSMISSION FACILITIES THAT COMPLY WITH THIS SUBSECTION (12).

15 (c) FOR THE PURPOSES OF THIS SECTION:

16 (I) "ELECTRIC TRANSMISSION FACILITY" MEANS A POWER LINE OR
17 OTHER FACILITY THAT TRANSMITS ELECTRICAL CURRENT AND OPERATES
18 AT A VOLTAGE LEVEL GREATER THAN OR EQUAL TO 44 KILOVOLTS.

19 (II) "RIGHTS-OF-WAY FOR ELECTRIC TRANSMISSION FACILITIES"
20 MEANS ALL PROPERTY RIGHTS AND INTERESTS OBTAINED BY THE OWNER
21 OR OPERATOR OF AN ELECTRIC TRANSMISSION FACILITY FOR THE PURPOSE
22 OF CONSTRUCTING, MAINTAINING, OR OPERATING THE ELECTRIC
23 TRANSMISSION FACILITY.

24 **SECTION 3. Effective date - applicability.** This act shall take
25 effect July 1, 2004, and shall apply to noise generated and civil actions
26 that are at issue under Rule 16, C.R.C.P., on or after said date.

27 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.