

Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 04-0850.01 Jery Payne

HOUSE BILL 04-1348

HOUSE SPONSORSHIP

Mitchell,

SENATE SPONSORSHIP

McElhany,

House Committees

Transportation & Energy

Senate Committees

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.

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 SHALL SET THE MAXIMUM PERMISSIBLE NOISE
20 LEVELS FOR ELECTRIC TRANSMISSION FACILITIES. THE COMMISSION MAY
21 ESTABLISH THE PERMISSIBLE NOISE LEVELS AND THE APPROPRIATE
22 DISTANCE FROM THE EDGE OF THE RIGHT-OF-WAY TO MEASURE NOISE
23 LEVELS EITHER BY RULES OF GENERAL APPLICABILITY OR BY ISSUING
24 ORDERS TO SPECIFIC ELECTRIC TRANSMISSION FACILITIES OR
25 RIGHTS-OF-WAY PURSUANT TO TITLE 40, C.R.S. SUCH RULES SHALL BE
26 SUBJECT TO SECTIONS 24-4-103 AND 24-4-108, C.R.S. WHEN APPLYING,
27 AN APPLICANT SEEKING A COMMISSION ORDER COVERING NOISE LEVELS OF

1 A SPECIFIC ELECTRIC TRANSMISSION FACILITY OR RIGHT-OF-WAY SHALL
2 NOTIFY ALL MUNICIPALITIES AND COUNTIES WHERE THE SPECIFIC ELECTRIC
3 TRANSMISSION FACILITY OR RIGHT-OF-WAY IS OR WILL BE LOCATED. THE
4 PUBLIC UTILITIES COMMISSION SHALL AFFORD THE PUBLIC AN
5 OPPORTUNITY TO PARTICIPATE IN ALL PROCEEDINGS IN WHICH PERMISSIBLE
6 NOISE LEVELS ARE ESTABLISHED ACCORDING TO THE "PUBLIC UTILITIES
7 LAW", ARTICLES 1 TO 7 OF TITLE 40, C.R.S., AND THE "STATE
8 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

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

18 (c) FOR THE PURPOSES OF THIS SECTION:

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

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

27 **SECTION 3. Effective date - applicability.** This act shall take

1 effect July 1, 2004, and shall apply to noise generated and civil actions
2 that are at issue under Rule 16, C.R.C.P., on or after said date.

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