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SENATE BILL 11-045

BY SENATOR(S) Johnston, Bacon, Boyd, Carroll, Foster, Heath, Jahn, Schwartz;
also REPRESENTATIVE(S) Levy, Fields, Labuda, Peniston, Priola, Todd, Wilson.

CONCERNING A STREAMLINED PROCESS FOR SECURING GOVERNMENTAL APPROVAL FOR THE SITING OF ELECTRIC TRANSMISSION FACILITIES, AND, IN CONNECTION THEREWITH, CREATING A TASK FORCE.

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

SECTION 1. Article 4 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-4-119. Siting of electric transmission facilities - task force - repeal. (1) **Legislative declaration.** THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THE DEVELOPMENT OF NEW ELECTRIC TRANSMISSION FACILITIES IS NECESSARY TO PROMOTE THE DEVELOPMENT OF ADDITIONAL CLEAN AND RENEWABLE ELECTRIC GENERATION RESOURCES, COLORADO'S ENERGY SECURITY, AND THE STATE'S LONG-TERM ECONOMIC GROWTH. THE SITING AND PERMITTING OF ELECTRIC TRANSMISSION FACILITIES IS CURRENTLY SUBJECT TO VARIOUS STATE AND LOCAL GOVERNMENT REQUIREMENTS. BECAUSE ELECTRIC TRANSMISSION

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

FACILITIES OFTEN TRAVERSE MULTIPLE JURISDICTIONS, COMPLIANCE WITH MULTIPLE REQUIREMENTS CREATES THE POTENTIAL FOR PERMITTING DELAYS OR INCONSISTENT DECISIONS. IT IS, THEREFORE, IN THE STATE'S INTEREST TO CONSIDER OPPORTUNITIES TO IMPROVE EXISTING SITING AND PERMITTING PROCESSES APPLICABLE TO ELECTRIC TRANSMISSION FACILITIES, INCLUDING THE POSSIBLE ESTABLISHMENT OF A SINGLE, STATEWIDE SITING AND PERMITTING PROCESS FOR SUCH FACILITIES.

(2) **Task force and report.** (a) THERE IS HEREBY CREATED THE TASK FORCE ON STATEWIDE TRANSMISSION SITING AND PERMITTING, ALSO REFERRED TO IN THIS SECTION AS THE "TASK FORCE". THE TASK FORCE SHALL MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE GENERAL ASSEMBLY REGARDING COLORADO'S EXISTING STATUTORY AND REGULATORY FRAMEWORK APPLICABLE TO THE SITING AND PERMITTING OF ELECTRIC TRANSMISSION FACILITIES AS WELL AS OPPORTUNITIES TO IMPROVE THAT FRAMEWORK. THE TASK FORCE SHALL TAKE TESTIMONY ON THE TOPICS LISTED IN SUBSECTION (4) OF THIS SECTION AND SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON SUCH TESTIMONY AND RECOMMENDATIONS NO LATER THAN DECEMBER 1, 2011. EACH RECOMMENDATION MADE BY THE TASK FORCE REQUIRES THE AFFIRMATIVE CONSENT OF A MAJORITY OF ITS MEMBERS AND MAY BE ACCOMPANIED BY A MINORITY REPORT, AS APPROPRIATE.

(b) THE TASK FORCE SHALL HOLD AT LEAST FOUR MEETINGS, WHICH SHALL BE OPEN TO THE PUBLIC. THE TASK FORCE SHALL ELECT A CHAIR AND A VICE-CHAIR FROM ITS MEMBERS AT ITS FIRST MEETING. THE TASK FORCE SHALL SOLICIT AND RECEIVE COMMENTS FROM MEMBERS OF THE PUBLIC, WHICH MUST INCLUDE AN OPPORTUNITY FOR COLORADO RESIDENTS TO SUBMIT WRITTEN COMMENTS TO THE TASK FORCE. THE TASK FORCE MAY DETERMINE THE MANNER IN WHICH SUCH COMMENTS ARE RECEIVED.

(c) THE TASK FORCE SHALL CONSIDER AND GIVE WEIGHT TO PUBLIC COMMENTS RECEIVED DURING THE PUBLIC HEARING PROCESS, AS WELL AS WRITTEN COMMENTS FROM AFFECTED COUNTIES, CITIES, ELECTRIC UTILITIES, OTHER ELECTRIC POWER PROVIDERS, CUSTOMERS, ENVIRONMENTAL GROUPS, AND OTHER INTERESTED STAKEHOLDERS.

(3) **Membership.** (a) THE TASK FORCE CONSISTS OF SEVENTEEN MEMBERS AS FOLLOWS:

(I) THE DIRECTOR OF THE COMMISSION, OR HIS OR HER DESIGNEE, WHO SHALL CONVENE THE TASK FORCE AND WHO IS AUTHORIZED TO CONTRACT WITH A MEDIATOR OR OTHER THIRD PARTY TO FACILITATE ACCOMPLISHMENT OF THE TASK FORCE'S DUTIES;

(II) TEN MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

(A) ONE MEMBER REPRESENTING COOPERATIVE ELECTRIC ASSOCIATIONS THAT DISTRIBUTE ELECTRICITY;

(B) ONE MEMBER REPRESENTING COOPERATIVE ELECTRIC ASSOCIATIONS THAT GENERATE AND TRANSMIT ELECTRICITY;

(C) TWO MEMBERS REPRESENTING INVESTOR-OWNED ELECTRIC UTILITIES;

(D) TWO MEMBERS REPRESENTING MUNICIPALLY OWNED ELECTRIC UTILITIES;

(E) ONE MEMBER REPRESENTING RENEWABLE ENERGY ELECTRIC GENERATION INTERESTS;

(F) ONE MEMBER REPRESENTING LARGE COMMERCIAL CONSUMERS OF ELECTRICITY; AND

(G) TWO LANDOWNERS REPRESENTING AGRICULTURAL INTERESTS WHO RESIDE IN DIFFERENT GEOGRAPHIC AREAS OF THE STATE.

(III) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, WHO MUST NOT BE AFFILIATED WITH ANY OF THE GROUPS REPRESENTED BY OTHER MEMBERS OF THE TASK FORCE;

(IV) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE, WHO MUST NOT BE AFFILIATED WITH ANY OF THE GROUPS REPRESENTED BY OTHER MEMBERS OF THE TASK FORCE;

(V) TWO MEMBERS REPRESENTING THE INTERESTS OF COLORADO MUNICIPALITIES, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE COLORADO MUNICIPAL LEAGUE OR ITS SUCCESSOR ORGANIZATION; AND

(VI) TWO MEMBERS REPRESENTING THE INTERESTS OF COLORADO COUNTIES, APPOINTED BY THE EXECUTIVE DIRECTOR OF COLORADO COUNTIES, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION.

(b) THE APPOINTING AUTHORITIES SHALL MAKE THEIR APPOINTMENTS WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

(c) THE OFFICIAL WHO APPOINTED A MEMBER WHOSE ABSENCE RESULTS IN A VACANCY SHALL FILL THE VACANCY BY APPOINTMENT.

(4) **Scope of inquiry.** AT A MINIMUM, THE TASK FORCE SHALL TAKE COMMENTS ON THE FOLLOWING TOPICS:

(a) AN INVENTORY AND EVALUATION OF COLORADO'S CURRENT SITING AND PERMITTING FRAMEWORK FOR ELECTRIC TRANSMISSION FACILITIES, INCLUDING ITS BENEFITS AND SHORTCOMINGS;

(b) RESEARCH INTO EXAMPLES OF HOW OTHER STATES APPROACH SITING AND PERMITTING OF ELECTRIC TRANSMISSION FACILITIES;

(c) IDENTIFICATION OF POSSIBLE MODELS FOR IMPROVING COLORADO'S EXISTING SITING AND PERMITTING PROCESSES APPLICABLE TO ELECTRIC TRANSMISSION FACILITIES;

(d) RECOMMENDED ACTIONS TO STREAMLINE SITING AND PERMITTING PROCESSES APPLICABLE TO ELECTRIC TRANSMISSION FACILITIES, INCLUDING A BALANCING OF ENVIRONMENTAL, LAND USE, AND COMMUNITY EFFECTS WITH TRANSMISSION PROJECT COSTS AND SCHEDULE RISKS;

(e) AN EXAMINATION OF THE ADVANTAGES AND DISADVANTAGES OF A STATEWIDE TRANSMISSION SITING AND PERMITTING FRAMEWORK FOR ELECTRIC TRANSMISSION FACILITIES; AND

(f) AN EXAMINATION OF THE POLITICAL ACCEPTABILITY OF, AND POTENTIAL STRATEGIES FOR, CREATING A STATE-LEVEL SITING ENTITY.

(5) **Funding.** (a) THE COMMISSION MAY ACCEPT PRIVATE GIFTS, GRANTS, AND DONATIONS FOR THE PURPOSE OF PROVIDING SUPPORT TO THE TASK FORCE TO PERFORM ITS RESPONSIBILITIES. THE COMMISSION SHALL

TRANSFER ALL SUCH GIFTS, GRANTS, AND DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO A SEPARATE ACCOUNT, WHICH IS HEREBY CREATED, IN THE PUBLIC UTILITIES COMMISSION FIXED UTILITY FUND CREATED IN SECTION 40-2-114.

(b) THE COMMISSION IS NOT REQUIRED TO SOLICIT GIFTS, GRANTS, OR DONATIONS FROM ANY SOURCE FOR THE PURPOSES OF THE TASK FORCE. NO GENERAL FUND MONEYS SHALL BE USED TO PAY FOR ANY EXPENSES OF THE TASK FORCE.

(c) IF, BY JUNE 1, 2011, MONEYS IN THE ACCOUNT HAVE NOT REACHED AN AMOUNT SUFFICIENT TO PAY THE EXPENSES OF THE TASK FORCE:

(I) THE TASK FORCE SHALL NOT MEET OR UNDERTAKE ANY OTHER DUTIES PURSUANT TO THIS SECTION;

(II) THE COMMISSION SHALL RETURN TO EACH GRANTOR OR DONOR AN AMOUNT EQUAL TO SUCH GRANTOR'S OR DONOR'S CONTRIBUTION; AND

(III) THE STATE TREASURER SHALL TRANSFER THE INTEREST, IF ANY, EARNED FROM THE INVESTMENT OF MONEYS IN THE ACCOUNT TO THE GENERAL FUND.

(6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2011.

SECTION 2. 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.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO