

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0398.01 Megan McCall x4215

SENATE BILL 22-083

SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

Catlin,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING A BROADBAND PROVIDER'S USE OF THE PUBLIC**
102 **RIGHTS-OF-WAY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, the department of transportation (CDOT) may enter into public-private initiative agreements with a telecommunications provider for use of the public rights-of-way. The bill creates an exception for a broadband provider's use of the public rights-of-way to the requirements for public-private initiative agreements that CDOT enters into with a telecommunications provider, and defines the term "broadband

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

provider". The bill provides that any exclusive arrangement, lease, or other agreement CDOT enters into with a broadband provider for use of the public rights-of-way must only include reasonable fees directly related to processing the permitting application.

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

2 **SECTION 1.** In Colorado Revised Statutes, 43-1-1204, **amend**
3 (5) as follows:

4 **43-1-1204. Public-private initiative agreement - definition.**

5 (5) (a) EXCEPT AS PROVIDED IN SUBSECTION (5)(b) OF THIS SECTION:

6 (I) The department shall not enter into any exclusive arrangement,
7 lease, or other agreement for use of the public rights-of-way by a
8 telecommunications provider that in any way discriminates or prevents a
9 similar arrangement being made with any other telecommunications
10 provider;

11 (II) All leases of rights-of-way to telecommunications providers
12 must be done on a nondiscriminatory same-term basis; AND

13 (III) If a telecommunications provider compensates the state in
14 other than cash, a cash equivalent value must be imputed and attached to
15 the agreement, and any other telecommunications provider may have
16 equal access to the right-of-way for the cash equivalent. The cash
17 equivalent shall be an estimate of the fair market value of the service or
18 product provided to the state, and a telecommunications provider may ask
19 a court of competent jurisdiction to review the imputed monetary amount,
20 which the court may lower to the reasonable fair market value if
21 necessary.

22 (b) BY AUGUST 30, 2022, THE DEPARTMENT SHALL DEVELOP
23 A UNIFORM ELECTRONIC APPLICATION, PERMITTING, CONTRACT, AND FEE

1 STRUCTURE TO FACILITATE NONGOVERNMENTAL ENTITIES' ACCESS TO
2 PUBLIC RIGHTS-OF-WAY AND FIBER LEASE FOR THE DEPLOYMENT OF
3 BROADBAND.

4 (c) (I) ACCEPTANCES AND DENIALS BY THE DEPARTMENT
5 PURSUANT TO SUBSECTIONS (5)(a) AND (5)(b) OF THIS SECTION SHALL BE
6 PROVIDED BY THE DEPARTMENT TO A BROADBAND PROVIDER IN WRITING
7 AND SHALL IDENTIFY SPECIFIC REASONS FOR THE APPROVAL OR THE
8 DENIAL. THE DEPARTMENT SHALL ALSO MAKE AVAILABLE TO THE PUBLIC
9 THE WRITTEN APPROVAL OR DENIAL REQUIRED BY THIS SUBSECTION
10 (5)(c)(I) IN AN ONLINE ELECTRONIC FORMAT.

11 (II) AS USED IN THIS SECTION, "BROADBAND PROVIDER" HAS THE
12 MEANING SET FORTH IN SECTION 38-5.5-102 (3).

13 **SECTION 2. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly; except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article V
17 of the state constitution against this act or an item, section, or part of this
18 act within such period, then the act, item, section, or part will not take
19 effect unless approved by the people at the general election to be held in
20 November 2022 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.