

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 25-1023

BY REPRESENTATIVE(S) Martinez and Bacon, Bird, Boesenecker, Brown, Camacho, Duran, Espenosa, Garcia, Lindsay, Lindstedt, Mabrey, Marshall, Mauro, McCormick, Phillips, Rydin, Sirota, Smith, Story, Titone, Valdez, Velasco, Woodrow, Rutinel, Zokaie;
also SENATOR(S) Gonzales J. and Simpson, Weissman, Ball, Bridges, Cutter, Exum, Jodeh, Kipp, Rodriguez, Wallace, Winter F., Coleman.

CONCERNING LOCAL GOVERNMENT REVIEW OF CERTAIN FENCING PROJECTS.

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

SECTION 1. In Colorado Revised Statutes, **add** 29-20-112 as follows:

29-20-112. Local government review of certain fencing projects in the Sangre de Cristo land grant lands - requirement to opt in - exemptions - definitions - legislative declaration. (1) (a) THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

(I) THE SANGRE DE CRISTO LAND GRANT LANDS ARE A PLACE OF RICH HISTORY AND TRADITION AND CONTAIN AN ABUNDANCE OF WILDLIFE AND VEGETATION THAT ARE OF GREAT SIGNIFICANCE TO THE ENTIRE STATE;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(II) THE SANGRE DE CRISTO LAND GRANT LANDS ARE AT RISK OF LANDOWNERS UNDERTAKING ENVIRONMENTALLY DAMAGING FENCING PROJECTS WITHOUT OVERSIGHT OR INTERVENTION BY A LOCAL GOVERNMENT;

(III) THESE FENCING PROJECTS DENY WILDLIFE ACCESS TO WATER, FOOD, AND SHELTER THAT THE WILDLIFE DEPENDS ON TO SURVIVE AND ALSO DISTURB ESTABLISHED MIGRATION PATTERNS;

(IV) THESE FENCING PROJECTS ALSO ADVERSELY IMPACT THE VEGETATION THAT HELPS TO PREVENT SOIL EROSION, MAINTAIN WATER QUALITY, AND PROVIDE A HABITAT FOR WILDLIFE; AND

(V) THEREFORE, REVIEW OF CERTAIN FENCING PROJECTS IN THE SANGRE DE CRISTO LAND GRANT LANDS BY LOCAL GOVERNMENTS:

(A) IS NECESSARY TO AVOID NEGATIVE IMPACTS TO WILDLIFE AND VEGETATION BEFORE THE FENCING PROJECT COMMENCES; AND

(B) ALLOWS LOCAL GOVERNMENTS THE FLEXIBILITY TO APPROVE THE FENCING PROJECT IF THE LOCAL GOVERNMENT DETERMINES THAT THE BENEFITS OF THE FENCING PROJECT OUTWEIGH THE HARMS.

(b) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT THE REVIEW OF CERTAIN FENCING PROJECTS IN THE SANGRE DE CRISTO LAND GRANT LANDS BY LOCAL GOVERNMENTS IS A MATTER OF STATEWIDE CONCERN AND HAS A SIGNIFICANT ENVIRONMENTAL BENEFIT TO THE STATE.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONTIGUOUS" MEANS THAT EACH PORTION OF FENCE IS NO MORE THAN THREE FEET FROM A DIRECTLY ADJACENT PORTION OF FENCE.

(b) (I) "COVERED FENCING PROJECT" MEANS A PROJECT TO INSTALL OR SUBSTANTIALLY REPAIR A CONTIGUOUS FENCE THAT IS PARTIALLY OR ENTIRELY IN THE SANGRE DE CRISTO LAND GRANT LANDS AND THAT UPON COMPLETION WILL:

(A) ENCLOSE A SPACE AND WILL BE NO LOWER THAN FIVE FEET IN HEIGHT AT ANY POINT ALONG THE FENCE AND WILL BE ONE MILE IN LENGTH OR LONGER; OR

(B) NOT ENCLOSE A SPACE AND WILL BE NO LOWER THAN FIVE FEET IN HEIGHT AT ANY POINT ALONG THE FENCE AND WILL BE ONE-HALF MILE IN LENGTH OR LONGER.

(II) "COVERED FENCING PROJECT" INCLUDES THE ADDITION OF HEIGHT OR LENGTH TO A CONTIGUOUS FENCE THAT CAUSES THE CONTIGUOUS FENCE TO MEET THE HEIGHT AND LENGTH SPECIFICATIONS DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS SECTION.

(c) "DISTURBANCE" MEANS A DISTURBANCE OF MORE THAN ONE ACRE OF TOPSOIL.

(d) "FENCE" INCLUDES GATES.

(e) "PRISON" MEANS A:

(I) CORRECTIONAL FACILITY, AS DEFINED IN SECTION 17-1-102(1.7);

(II) LOCAL JAIL, AS DEFINED IN SECTION 17-1-102 (7); OR

(III) PRIVATE CONTRACT PRISON, AS DEFINED IN SECTION 17-1-102 (7.3).

(f) "PUBLIC SCHOOL" HAS THE MEANING SET FORTH IN SECTION 22-1-144 (1)(d).

(g) "PUBLIC UTILITY" HAS THE MEANING SET FORTH IN SECTION 40-1-103 (1)(a)(I).

(h) "SANGRE DE CRISTO LAND GRANT LANDS" MEANS THE PORTION OF LANDS IN COLORADO THAT IS COVERED BY THE SANGRE DE CRISTO LAND GRANT, WHICH WAS GRANTED TO SETTLERS BY MEXICO IN 1844 AND CONFIRMED BY THE UNITED STATES IN 1848 THROUGH THE TREATY OF GUADALUPE HIDALGO.

(i) "SUBSTANTIALLY REPAIR" MEANS A LEVEL OF REPAIR THAT

REQUIRES AT LEAST ONE-HALF MILE OF FENCE TO BE TAKEN DOWN AND REINSTALLED.

(3)(a) ON OR AFTER JULY 1, 2025, BEFORE COMMENCING A COVERED FENCING PROJECT, A PERSON SHALL SUBMIT AN APPLICATION FOR THE COVERED FENCING PROJECT TO THE LOCAL GOVERNMENT WITH JURISDICTION OVER THE COVERED FENCING PROJECT. IF TWO OR MORE ADJACENT LOCAL GOVERNMENTS HAVE JURISDICTION OVER THE COVERED FENCING PROJECT, THE PERSON SHALL SUBMIT THE APPLICATION FOR THE COVERED FENCING PROJECT TO THE LOCAL GOVERNMENT WITH THE JURISDICTION THAT WILL CONTAIN THE MOST FENCE WHEN THE COVERED FENCING PROJECT IS COMPLETE. THE APPLICATION MUST CONTAIN, AT A MINIMUM, THE FOLLOWING INFORMATION:

(I) FENCE HEIGHT;

(II) FENCE LENGTH;

(III) FENCE TYPE;

(IV) FENCE MATERIAL;

(V) ADJUSTMENTS MADE TO ALLOW FOR WILDLIFE PASSAGE;

(VI) WHETHER A DISTURBANCE HAS OCCURRED OR WILL OCCUR AS A RESULT OF THE FENCING PROJECT;

(VII) MIGRATION AND HUNTING PATTERNS IN THE AREA OF THE FENCING PROJECT;

(VIII) THE PURPOSE OF THE FENCING PROJECT; AND

(IX) ANY OTHER INFORMATION RELEVANT TO THE LOCAL GOVERNMENT'S DECISION PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION.

(b) NO LATER THAN FOURTEEN DAYS AFTER THE LOCAL GOVERNMENT'S RECEIPT OF AN APPLICATION DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION, THE LOCAL GOVERNMENT SHALL PUBLISH NOTICE OF THE APPLICATION ON THE LOCAL GOVERNMENT'S WEBSITE.

(c) NO LATER THAN SIXTY DAYS AFTER THE LOCAL GOVERNMENT'S RECEIPT OF AN APPLICATION DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION, THE LOCAL GOVERNMENT SHALL EITHER APPROVE OR REJECT THE APPLICATION BASED ON WHETHER:

(I) THERE IS A RATIONAL PURPOSE FOR THE COVERED FENCING PROJECT;

(II) THE COVERED FENCING PROJECT WOULD HAVE AN ADVERSE IMPACT ON HUNTERS' RIGHTS;

(III) THE COVERED FENCING PROJECT WOULD HAVE AN ADVERSE IMPACT ON SURROUNDING FLOODPLAINS;

(IV) THE APPLICANT INTENDS TO COMPLETE NECESSARY REVEGETATION AS A RESULT OF THE COVERED FENCING PROJECT; AND

(V) THE COVERED FENCING PROJECT WOULD SIGNIFICANTLY DEGRADE THE AESTHETIC VALUE OF THE SURROUNDING LANDSCAPE.

(d) EXCEPT AS SET FORTH IN SUBSECTION (3)(e) OF THIS SECTION, A LOCAL GOVERNMENT SHALL NOT APPROVE AN APPLICATION SUBMITTED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION UNLESS THE APPLICANT DEMONSTRATES THAT THE COVERED FENCING PROJECT WILL:

(I) PROVIDE PASSAGE FOR LARGE MAMMALIAN WILDLIFE THROUGH AN OPENING THAT IS AT LEAST TWENTY FEET WIDE AND HAVE A HEIGHT OF NOT MORE THAN FORTY-TWO INCHES FROM THE GROUND TO THE TOP RAIL OR WIRE FOR AT LEAST EVERY ONE-FOURTH MILE OF FENCE;

(II) PROVIDE PASSAGE FOR SMALL MAMMALIAN WILDLIFE THROUGH AN OPENING THAT IS AT LEAST FIVE FEET WIDE AND HAVE A HEIGHT OF AT LEAST SIXTEEN INCHES FROM THE GROUND TO THE BOTTOM RAIL OR WIRE FOR AT LEAST EVERY ONE-TENTH MILE OF FENCE; AND

(III) NOT CAUSE A DISTURBANCE, UNLESS THE APPLICANT HAS OBTAINED ANY NECESSARY PERMIT FROM THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(e) NOTWITHSTANDING THIS SUBSECTION (3), THE LOCAL

GOVERNMENT MAY APPROVE AN APPLICATION PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION IF THE LOCAL GOVERNMENT DETERMINES THAT THE BENEFITS OF THE COVERED FENCING PROJECT OUTWEIGH THE HARMS.

(f) NOTWITHSTANDING THIS SUBSECTION (3), A LOCAL GOVERNMENT SHALL NOT REQUIRE A PERSON COMMENCING A COVERED FENCING PROJECT TO SUBMIT AN APPLICATION PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION OR PAY A FEE ASSOCIATED WITH SUBMITTING AN APPLICATION IF THE LOCAL GOVERNMENT FINDS THAT THE COVERED FENCING PROJECT PRESENTS NO SIGNIFICANT ENVIRONMENTAL IMPACTS.

(4) (a) A LOCAL GOVERNMENT ORDINANCE, RESOLUTION, REGULATION, OR OTHER LAW THAT IS MORE STRICT THAN ONE OR MORE OF THE STANDARDS DESCRIBED IN SUBSECTION (3) OF THIS SECTION SUPERSEDES THE CONFLICTING STANDARD OR STANDARDS DESCRIBED IN SUBSECTION (3) OF THIS SECTION FOR ANY APPLICATIONS SUBMITTED WITHIN THE LOCAL GOVERNMENT'S JURISDICTION.

(b) A LOCAL GOVERNMENT IS ONLY SUBJECT TO THE REQUIREMENTS OF THIS SECTION IF THE GOVERNING BODY OF THE LOCAL GOVERNMENT ADOPTS AN ORDINANCE, RESOLUTION, REGULATION, OR OTHER LAW DECLARING THAT THE LOCAL GOVERNMENT OPTS INTO THE REQUIREMENTS OF THIS SECTION.

(5) THIS SECTION DOES NOT APPLY TO A COVERED FENCING PROJECT THAT IS NECESSARY FOR:

(a) A PROJECT BY A PUBLIC UTILITY OR THE DEPARTMENT OF TRANSPORTATION OR THAT IS AN ENERGY SECTOR PUBLIC WORKS PROJECT;

(b) THE SAFETY OR SECURITY OF A PUBLIC SCHOOL OR A PRISON; OR

(c) FENCES PROVIDED BY THE DIVISION OF PARKS AND WILDLIFE PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 33.

SECTION 2. Applicability. This act applies to covered fencing projects commencing on or after July 1, 2025.

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate

preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO