



2024 Legislative Issue Form

To propose a CCI legislative issue, please complete this form.

Feel free to use more than one page and include any supplemental materials.

1.) **Contact Information** (of person bringing forth issue):

- a. **Name:** Bryan Weimer
- b. **Title:** Public Works and Development Director
- c. **County:** Arapahoe County
- d. **Phone Number:** 720-874-6521
- e. **E-Mail Address:** bweimer@arapahoegov.com

2.) **Issue/Problem to be addressed** (What is the problem this legislation is seeking to solve?)

Capital improvement projects regularly encounter utility conflicts during design and construction. Often, even with advanced coordination, utilities are not relocated in a timely manner and projects incur unanticipated delay resulting in substantial project cost overruns.

Utility providers do not commit to a utility relocation timeline, are not responsive to utility design/coordination/actual utility relocations and are not being held accountable to reasonable utility relocation timelines, which negatively impact capital project budgets, timelines, and induce delay claims to local governments. Utility companies often do not sign Utility Clearance letters, which help them to become partners in the project. The letters communicate the utility company's plans to the owner of the project. This information is critical in planning a successful project.

3.) **Background on this Issue/Problem** (How did this come to be? Why are you seeking a legislative remedy?)

As local governments are constructing transportation/roadway projects, they typically have to work with utility companies (predominantly electric/gas and telecommunications) to relocate existing utility lines. Utility relocations are often critical path components for capital improvement projects, so any delays can significantly impact project timelines and place additional unexpected financial burden on local governments responsible for the project.

Arapahoe County has experienced delay costs in capital road projects that have been caused by delay by the utility owner in performing relocation work, including design and construction items. A particular project that the County is currently working has experienced significant project delays, which will result in significant cost increases and impacts, that are directly attributed to one large utility company's failure to respond adequately and reasonably to the County's requests for relocation. In this particular case, the County has been working with the utility owner for over two years during design of the project and has not been able to get the utility owner to relocate per the project schedule. This delay is projected to cost the project in excess of two million dollars. The County is seeking a legislative remedy to incentivize cooperation with capital projects in terms of such utility relocations.

The 811 Legislation has not helped with this matter and neither has the County's new Utility Relocation Policy. The County does not have enough teeth in the CRS to motivate utility companies to partner in a reasonable manner to become accountable for their actions and be responsive to requests and need for utility relocations.

4.) **Proposed Solution/Legislative Remedy to this issue.**

We propose that CCI advance legislation to ensure transparency, commitment, responsibility, and accountability for utilities providers. A proposed concept for remedying the problem is to amend existing statutes that allow utilities, including sewer and water facilities, electric transmission facilities, gas lines, and telecommunication and broadband facilities, to locate in public highway rights of way under local jurisdiction to require the utility owners to cooperate with road improvement projects in terms of establishing project schedules for relocation of the utility facilities, if necessary for purposes of the project, and to establish penalties or other incentives for the utility owners to adhere to such schedules. This legislation could also be an enhancement to SB18-167 (811 Bill) by adding provisions that address the 4 items listed. Furthermore, as to not be one sided the legislation would address the responsibility of project owners (cities and counties). The legislation we propose would address these lacking

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By Friday, July 7.



areas. The legislation would address responsibilities of utilities and jurisdictions throughout the various phases of a project including:

- Design
- Construction
- Implementation or actual performance
- The legislation would not be one sided and establish roles/ responsibilities of utilities and jurisdiction to establish best practices for the issue.
- The concept includes:
 - a) What the penalties or incentives may be;
 - b) Provisions for notice of projects;
 - c) Provisions for establishing agreements for project schedules and relocation needs;
 - d) Provisions to make sure the legislation is fair and reasonable and minimizes impacts to costs of performing projects, minimizes disruptions to utility services and the use of the public highways; and
 - e) Provisions for minimizing impacts to the cost of providing the utility services to the public.

5.) Have you explored a non-legislative solution to this problem?

Yes, the County adopted a Utility Clearance Policy & Procedure in 2021 and again updated in 2022 outlining utility coordination with “wet” utility providers (sewer and water) on proposed construction projects. The County currently does not have the statutory authority that is required to adopt by ordinance or resolution measures to hold utility owners accountable and responsible for timely relocations.

In addition, CCI in conjunction with Arapahoe County has sponsored a committee to look to solutions and to gauge the problem, which appears to be a front range/metropolitan area issue. Items the committee is considering are potential operating agreements with utilities, regulations placed via the PUC, etc. Associated with this contact is being made with ASCE, APWA, and CCA to garner their perspective and support for making changes.

6.) Statutory Citation to be modified AND proposed/revised language (The Colorado Revised Statute is available for free at [this link](#), by selecting “Colorado Revised Statutes”).

SB18-167 - 811 Bill – Weld County is interested in changes within this of statute, but at time of the preparation of this submittal, details have not been finalized.

Title 40

- Currently State Statutes only address the rights for utilities to be located and utilize right-of-way for installing their facilities.
- Case law really addresses the payment and cost responsibility for utility relocations
- There is nothing that requires specific utilities when it comes to relocation performance

7.) Relationship of this issue to County Commissioner’s roles and/or authorities.

County Commissioners are responsible for fiscal stewardship of county funds. Any unnecessary or unexpected expenses, such as project cost overruns, could affect the county’s financial health and, therefore, our ability to provide other critical services to residents.

8.) Has this proposal been approved by the Board of County Commissioners?

The Arapahoe County Commissioners have approved this proposal at a June 27, 2023, study session.

9.) List any potential Proponents/Opponents & their perspective; indicate any groups/individuals with whom you have already discussed this issue.

The County has spoken with multiple local governments in the area, and most are dealing with similar issues and would likely support legislation to incentivize cooperation to relocate utilities for construction projects. Also,

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County staff is working with other neighboring county and municipal jurisdictions, which support such legislation. The various jurisdictions plus CML have been part of the CCI committee discussed above. County and CCI staff have had discussion with utility owners regarding proposed legislation.

- 10.) **Have you visited with your legislator(s) about this proposal? What was their reaction? Are members of your delegation likely to sponsor, support, or oppose this proposal?**

We have not reached out to legislators at this time. If the CCI membership is supportive of this concept, we hope to work with CCI to contact legislators and CML, as appropriate, to secure support for the proposal.

- 11.) **Anticipated Fiscal Impact (to counties, state, other stakeholders, etc.).**

The intent of the proposed legislative solution is to provide positive fiscal impacts to governments if utility relocations can be regulated by the owners of the ROW including local governments.

- 12.) **Please list the local subject matter experts CCI staff can follow-up with for more information on this proposal.**

Bryan Weimer, Director of Public Works and Development, Arapahoe County

- 13.) **If your county is submitting multiple issue forms, please rank each issue.**

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