

2022 LEGISLATIVE WRAP-UP

The General Assembly adjourned the Second Regular Session of the 73rd General Assembly on May 11, 2022. Of the 657 bills that have been introduced during this year's legislative session, CREA monitored or engaged on 33 pieces of legislation, including bills relating to wildfire mitigation, greenhouse gas emission reduction, building and energy codes, beneficial electrification, broadband deployment, and other matters that impact electric cooperatives and the communities that we serve.

Additionally, CREA increased its legislative presences this year through testifying on bills, hosting a robust legislative reception, hosting a legislative luncheon for the managers, and brining in speakers for the CREA annual meeting and CREA board meetings. In total, 27 Senators and Representatives from both parties attended these events. This document represents an overview of various legislative activities CREA engaged in and other legislation that was debated during the 2022 legislative session.

CREA would like to extend a special thank you to the Legislative and Tax Committee, chaired by Debbie Rose, and the entire CREA board of directors and our members for the collaborative effort to complete a successful legislative session. CREA staff would also like to thank our contract lobbying firm, Brandeberry McKenna Public Affairs, for their continued support at the Capitol.

What CREA Accomplished at a Glance:

- **HB22-1013-Microgrids for Community Resilience Grant Program:** CREA sponsored and successfully lobbied for the passage of a bill that created a \$3.5 million grant program to fund microgrid projects in rural communities.
- **HB22-1104- Powerline Trails:** CREA staff was successful in negotiating an amendment to exclude Colorado's distribution cooperatives from the bill, which would have created burdensome requirements regarding recreational trails under powerline facilities.
- **HB22-1346- Electrician Plumber Licensing Apprentic Ratio:** CREA, in conjunction with other business groups and stakeholders, successfully negotiated amendments that removed a proposed reduction in the supervisor to apprentice ratio which would have limited the availability of skilled electricians necessary for cooperatives to carry on their business.
- **HB22-1362-Building Greenhouse Gas Emissions:** CREA staff worked with the Colorado Energy Office and other stakeholders on an amendment to ensure that utilities obtaining energy from a renewable installation under a net metering arrangement would be able to claim the renewable energy credits.
- **SB22-083- Broadband Provider's Use of Rights-of-way:** CREA, in coordination with the cooperatives that have broadband subsidiaries, successfully negotiated an amendment to remove language in the introduced bill that would have allowed CDOT to enter into exclusive arrangements with broadband providers for right-of-way access, thus "locking up" public rights-of-way and preventing the cooperative from using them.
- **SB22-090-Severe Weather Notifications to Utility Customers:** Although the bill was killed in committee, CREA successfully negotiated amendments that would have drastically reduced the impact on CREA's member cooperatives from having to comply with burdensome requirements.

CREA PRIORITY LEGISLATION SUMMARY

The following is a more detailed summary of the key legislation on which CREA staff engaged in the last legislative session:

HB22-1013-Microgrids for Community Resilience Grant Program: CREA proposed this bill to provide grant funding for microgrids to serve community anchor institutions in rural communities at risk of severe weather or natural disasters. The bill was passed by the House and the Senate, which authorized initial funding for the grant program in the amount of \$3.5 million. CREA successfully lobbied against amendments from labor organizations that would have required labor requirements for projects funded by the grant program. CREA staff successfully negotiated amendments with the environmental community to ensure that they were supportive of the bill. The bill has been sent to Governor Polis to be signed into law.

HB22-1104- Powerline Trails: This bill allows a transmission operator to enter into an agreement with local governments and private landowners to construct and maintain public recreation trails (powerline trails) under a transmission corridor. Further, the bill places requirements on transmission providers to develop and maintain information that encourages the construction of a powerline trail and to notify local governments of these potential projects during the permitting process. The bill also stipulates insurance, right-of-way, and vegetation management requirements for the utilities that operate and transmission lines and has entered a contract for a powerline trail. CREA staff was successful in negotiating an amendment to exclude Colorado's distribution cooperatives from the bill. The bill has been signed by Governor Polis on April 13, 2022.

HB22-1138- Reduce Employee Single-occupancy Vehicle Trips: The bill would have created an income tax credit for businesses that create a clean commuting plan that increases the use of alternative transportation options to reduce the number of vehicle miles driven by an employee. This proposal was an incentive-based program introduced as an alternative to the failed AQCC Employee Traffic Reduction Program rulemaking last year. Section 2 of the bill, however, would have affected some of CREA's larger co-ops that have 100 or more employees, as the bill did not include an exemption for non-profits. Further, the bill would have

imposed an administrative burden as well as the financial burden of requiring transportation fringe benefits and offering "commuter choice information." While the bill was amended to remove Section 2, CREA in conjunction with other members business community was successful in lobbying against the bill. The bill was postponed indefinitely.

HB22-1152- Prohibit Employer Adverse Action Marijuana Use: This bill would have prohibited an employer from taking adverse action against an employee if the employee uses medical marijuana on the premises of the employer during working hours or uses retail medical marijuana off the premises of the employer during nonworking hours. Adverse action was defined as refusing to hire, firing, refusing to promote, demoting, or discriminating in matters of compensation terms, conditions, or privilege of employment. The bill would have allowed employers to restrict the use of medical marijuana or retail marijuana by an employee or group of employees if the restriction is reasonably or rationally related to the employment activities. CREA joined other business groups in opposing this bill and CREA's lobbying efforts helped ensure that the bill was postponed indefinitely.

HB22-1244-Public Protections from Toxic Air Contaminants: This bill creates a new program in the Department of Public Health and Environment (CDPHE) to regulate toxic air contaminants (TACs) based on adverse health effects. TACs are defined in the bill as hazardous pollutants, covered air toxics, and any other air pollutant designated by the Air Quality Control Commission (AQCC). The AQCC must adopt rules to implement the program. The bill that the General Assembly passed was significantly different from the introduced version of the bill. It requires certain sources to submit annual toxic emissions reports and creates a toxic air contaminant monitoring program. It also requires the Air Quality Control Commission to identify up to five priority toxic air contaminants, establish health-based standards, and adopt emission control regulations. Beginning in FY 2022-23, the bill increases state expenditures on an ongoing basis. Wholesale utilities were able to secure an amendment that exempted coal generation facilities that are scheduled to close by 2031. However, the bill still presents significant concerns relating to natural gas electric generation as well as minor source

polluters such as industrial and manufacturing facilities that Colorado's electric cooperatives serve. The bill will be sent to Governor Polis to be signed into law.

HB22-1306- Broadband Deployment Board Grant Processes: This bill was proposed by the Joint Technology Committee with the intent of making statutory changes to create consistency with federal requirements relating to the disbursement of American Rescue Plan Act (ARPA) funds used for broadband projects. There are four main components of the bill:

- Reduce the notice and comment period of an interested party to review and comment on a grant application from at least 60 days to 45 days.
- Exempt a grantee from the requirement to complete a project in 2 years or less, if the grantee can demonstrate to the board that the project is delayed due to a relevant disruption in the supply chain.
- Require the broadband board to retroactively review denied applications that were received between July 1, 2021, and the effective date of this subsection. If a denied application meets the treasury department regulations, then the broadband board shall grant the money as soon as practicable, unless the project has already been completed of the application has been withdrawn.
- Establish an appeals process regarding grant applications. An appeal of a broadband board decision will be heard in the District Court of the City and County of Denver and must be filed within thirty days of the board's decision.

The bill has been sent to Governor Polis to be signed into law.

HB22-1346- Electrician Plumber Licensing Apprentice Ratio: This bill was proposed by labor organizations and would, among other things, reduce the permitted ratio of journeymen electricians to apprentices from 3:1 to 1:1. The bill was heard in the House Business Affairs and Labor Committee. CREA and other business groups opposing the bill were successful in negotiating amendments that removed the reduction in the supervisor-to-apprentice ratio. The bill still includes language authorizing the Division of Professions and Occupations in the Department of Regulatory Agencies to

employ individuals who are licensed or, if not licensed, who demonstrate substantial work experience in the electrical, plumbing, or construction industry to:

- Conduct compliance checks to ensure compliance with licensing and supervisor-to-apprentice ratio requirements applicable to electricians and plumbers on projects throughout the state;
- Prioritize compliance check projects that provide or will provide critical needs to state residents.

Additionally, the bill specifies that only a registered master electrician or plumber or a contractor employed by a registered master electrician or plumber can apply for a permit. The bill prohibits a non-registered master electrician or plumber who is working as an independent contractor from applying for a permit. The bill passed the House and has been sent to Governor Polis for signature.

HB22-1362-Building Greenhouse Gas Emissions: This bill as introduced would have directed the Colorado Energy Office (CEO) to select low energy and carbon codes based on the 2021 International Energy Conservation Code (IECC) or (in the future) the 2024 IECC code, which would be adopted by local governments in Colorado. However, the bill underwent significant changes in the Senate, as the Colorado Energy Office, Southwest Energy Efficiency Project, and Western Resource Advocates were able to reach a compromise with the local government coalition, homebuilders, and realtors to remove the Colorado Energy Office as the sole entity selecting and developing both the Electric Ready/Solar Ready code and the Low Energy and Carbon code. Instead, the amendment creates the Energy Code Board, co-chaired and co-appointed by CEO and DOLA, with the purpose of selecting and developing both the Electric Ready/Solar Ready code and the Low Energy and Carbon code. The Energy Code Board is a group of 18 members will meet starting in 2022 with the directive to start on the model electric ready and solar ready code. They will then begin discussions on the low energy and carbon code. The board will be made up of members from local governments, developers, architects, engineers, workers, construction industry and others will make up this group. The bill stipulated that renewable energy credits (RECs) from renewable energy installations will be available to offset use of fossil fuels, if any, in a building subject to the new codes. CREA staff successfully negotiated with the Colorado Energy

Office and stakeholders on an amendment to ensure that utilities obtaining energy from a renewable installation under a net metering arrangement on a building subject to the new codes will be able to obtain the RECs associated with such energy. The bill as amended passed both houses and has been sent to Governor Polis to sign.

HB22-1381- Colorado Energy Office Geothermal Energy Grant Program: This bill creates a geothermal energy grant program in the Colorado Energy Office (CEO) to award three types of grants:

- Single-structure geothermal grants for applicants constructing new buildings with geothermal systems as the primary heating and cooling system
- Community district heating grants for ground-source, water-source, or multisource thermal systems that serve more than one building
- Geothermal electricity generation grants for the development of geothermal electricity generation and hydrogen generation produced from geothermal energy

Building owners, developers, local governments, geothermal installers, contractors, communities, public utilities, or other entities approved by the CEO are eligible to apply for funding. The bill establishes qualifications, limits, and standards for awarding the grants. Grantees must submit annual reports to the CEO, and the CEO must submit annual reports by February 1 of each year beginning in 2024 to select legislative committees. The bill creates the Geothermal Energy Grant Fund which is continuously appropriated to the CEO to implement the grant programs. The CEO may award up to 40 percent of the total money in the fund to support the development of geothermal electricity generation and hydrogen generation produced from thermal energy; up to 80 percent to support single-structure geothermal grants; and up to 25 percent to support community district heating grants. Gas or electric service utilities that contribute to or partner with grant recipients may count mass-based emissions reductions associated with the projects toward compliance with clean heat targets and other greenhouse gas emission reduction requirements. Electric cooperatives could benefit from increased funding to incentives geothermal electricity generation. The bill has been sent to Governor Polis to be signed into law.

HB22-1404- Colorado Critical Infrastructure Resiliency Initiative: This bill would have created the Colorado Critical Infrastructure Board and the Colorado Resiliency Initiative. The 10-member board was to provide oversight over the infrastructure enhancement program aimed at identifying critical infrastructure projects to harden the grid. Critical infrastructure was broadly defined as the electric grid, water, oil and natural gas, and telecommunication. Further, the board would attempt to secure funding to provide financial support for grid hardening projects. The board was to create a plan to enable faster recovery of grid operations after an outage. The board was to also ensure that the state is in compliance with recent state and federal directives to mitigate vulnerabilities in Colorado's critical infrastructure; however, the board had no enforcement authority. The board was to coordinate grid resiliency efforts with the Colorado Electric Transmission Authority and make reports to the General Assembly following the regular legislative session in 2025 and each subsequent year until the board was repealed on September 1, 2027.

CREA in conjunction with other industry groups was successful in opposing the legislation. The bill was introduced and later postponed indefinitely following a committee hearing.

SB22-083- Broadband Provider's Use of Rights-of-way: This bill requires Colorado Department of Transportation (CDOT) to adopt uniform application, permitting, contract, and fee structures to facilitate access to CDOT public rights-of-way. This language aligns with Governor Polis's executive order to utilize state agencies to facilitate the expansion of broadband services in the state. CREA in coordination with the cooperatives that have broadband subsidiaries successfully negotiated an amendment to remove language in the introduced bill that allowed CDOT to enter into exclusive arrangements with broadband providers, which would have "locked up" public rights-of-way and prevented cooperatives from using them. The bill was signed by Governor Polis on April 7, 2022.

SB22-090- Severe Weather Notifications to Utility Customers: This bill would have required that all utilities notify their customers of a severe weather event likely to result in price increases of 15% or more. CREA had proposed amendments to the bill sponsor in late February to exempt cooperatives from the notice requirement, allowing them to instead provide a general

notification to their consumer members twice annually regarding energy conservation in times of inclement weather. While the bill sponsor, Senator Tammy Story (D-Conifer), agreed to the proposed amendments from CREA hours before the committee hearing, the bill was postponed indefinitely.

SB22-110- Equip Wind Turbine Aircraft Detection Lighting System: This bill would require wind turbines to be equipped with aircraft warning lights to be activated when aircraft are detected in the area. CREA successfully worked with Senator Jerry Sonnenberg (R-Sterling) to address concerns about allowing developers to pass along the cost of expensive upgrades on to consumer-members. The bill was amended to apply only to new wind developments. The amended bill passed both houses has been sent to Governor Polis to be signed into law.

SB22-118-Encourage Geothermal Energy Use: This bill modifies certain statutory provisions that apply to solar energy so that they also apply to geothermal energy systems. It also directs the Colorado Energy Office to develop basic consumer education materials about leased and purchased geothermal installations. Most notably, the bill specifies that geothermal equipment may be certified as pollution control equipment. The bill has been sent to Governor Polis to be signed into law.

SB22-193- Air Quality Improvement Investments: This bill creates grant programs relating to electric bus deployment, clean air grants, and an electric bike program for low to moderate income individuals. The grant programs are to prioritize projects in disproportionately impacted communities and the front range non-attainment area. The grants will be funded at the amounts below:

- \$25 million to the Industrial and Manufacturing Operations Clean Air Grant Program Cash Fund
- \$12 million to the Community Access to Electric Bicycles Cash Fund
- \$65 million to the Electrifying School Buses Grant Program Cash Fund

The bill has been sent to Governor Polis to be signed into law.

SB22-206-Disaster Preparedness and Recovery Resources: This bill allocates \$15 million to the newly created Disaster Resilience Rebuilding Program to provide loans and grants to homeowners, local governments, and business to recover after a natural disaster. Additionally, the bill allocates \$20 million to the Disaster Recovery and Resilience Program to provide loans and grants to homeowners, businesses, and local governments to cover costs related to rebuilding more resilient and energy efficient homes and structures. The sponsors attempted to amend the bill to create a Wild-fire Resiliency Code Board to make recommendations on building codes in the wildland urban interface. CREA was successful in negotiating with the sponsors to include one member of the board that will represent a statewide association of nonprofit utilities on the Wild-fire Resiliency Code Board; however, the amendment to create the Code Board was not adopted, the bill was signed by Governor Polis on May 18.

SB22-208- Condemned Conservation Easement Property: This bill provides that the valuation of condemned land encumbered by a conservation easement is to be made as if there was no conservation easement, and the proceeds are to be divided among the landowner and the holder of the conservation easement based on their respective interests in the property. CREA staff was initially concerned that the bill could increase the cost to cooperatives that may require a right-of-way for infrastructure on land encumbered by a conservation easement. The bill could result in artificially inflated values for land in condemnation proceedings or negotiations with the landowner and easement holder. However, based on our discussions with cooperative managers, it does not appear that this bill would have a significant operational impact. The bill passed both houses and has been sent to Governor Polis to be signed into law.

OTHER NOTEWORTHY LEGISLATION PASSED DURING THE 2022 LEGISLATIVE SESSION:

SB22-009-Recertification and Theft of Catalytic Converters: The Colorado Commodities Metals Theft Task Force, in conjunction with the Colorado Attorney General's Office, passed legislation to address the increase in catalytic converters theft. The bill permits an individual to drive a car without a catalytic converter if it has been stolen, and the theft has been reported to law enforcement. Further, the bill applies existing requirements relating to record keeping on the purchases of commodity metals to catalytic converters. Finally, the bill increases penalties for chop shop and auto part recyclers who are caught selling stolen catalytic converters or failing to report a stolen vehicle. The bill has been sent to Governor Polis to be signed into law.

SB22-028- Ground Water Compact Compliance Fund: This bill provides \$60 million in funding to be used to finance groundwater use reduction efforts in the Rio Grande and Republican River basins. These reductions will come through the retirement of irrigation wells and irrigated acres within the basins. The goal is to utilize the retirement of irrigated acres to achieve compact compliance and prolong irrigation for the majority of users in the basin. The bill was brought to CREA's attention by Highline Electric, as the bill is critical to maintaining the viability of irrigators and agricultural production on the Eastern Plains. The bill has a direct impact on the business operations of Colorado's electric cooperatives because the bill has long-term economic implications for the communities located in Highline, Y-W, K.C., and San Luis Valley Rural Electric's service territory and agricultural loads served there. The bill has been sent to Governor Polis to be signed into law.

SB22-097- Whistleblower Protection Health and Safety: Current state law provides whistleblower protections to any worker who raises reasonable concerns about the health or safety of a workplace during a public health emergency. This bill expands the whistleblower protections to all health and safety concerns regardless of if there is a declared public health emergency. The bill may have direct implications to the business operations of Colorado's electric cooperatives, by giving further protection to an employee who raises concerns about workplace violation of government health or safety rules. The bill also includes a "good faith" limitation, which would allow employers to take action

against an employee who reports safety issues that are in bad faith or are not substantially grounded. The bill was signed by Governor Polis on May 6.

SB22-230- Collective Bargaining for Counties: This bill would allow nearly 38,000 county employees to collectively bargain for increased benefits under the new legislation. However, amendments exempted several other public sector employees, including municipal and higher education employees. Originally, the bill would have included more than 250,000 public employees across the state. While the bill allows collective bargaining, employees covered by the legislation would not be protected if they decided to go on strike. At this time, it is unclear if Governor Polis will sign the legislation or use his veto power.

HB22-1007- Assistance Landowner Wildfire Mitigation: The bill establishes the Wildfire Mitigation and Resources Best Practices grant within the Colorado State Forest Service (CSFS) for local governments, counties, municipalities, special districts, a tribal agency or program, or non-profit organizations to conduct landowner/ homeowner outreach in high wildfire hazard areas. The bill also creates a state income tax credit to reimburse landowners for wildfire mitigation work costs. The bill has been sent to Governor Polis to sign into law.

HB22-1011-Wildfire Mitigation Incentives for Local Governments: This bill creates the Wildfire Mitigation Incentives for Local Government Grant Program in the amount of \$10 million to be administered by the Colorado State Forest Service (CSFS) at Colorado State University. The program will provide grants to local governments to match dedicated revenue raised for wildfire mitigation or existing funding for long-term wildfire mitigation projects and programs. An eligible local government must have a dedicated source of funding for forest management and wildfire mitigation. Grants must be used to match existing wildfire mitigation program or project funding, as well as dedicated revenues raised by the local governments for activities such as forest thinning, wildfire fuel reduction and outreach to property owners and the public. The bill does not have any direct funding opportunities for Colorado's electric cooperatives: however, the grant program is aimed at

funding projects in counties that are served by Colorado's electric cooperatives. There could be an opportunity to work with a county to apply for these grants to undertake mitigation work along a utility right-of-way. The bill has been sent to Governor Polis to sign into law.

HB22-1326- Fentanyl Accountability and Prevention: Fentanyl is a highly potent synthetic opioid, which has caused 540 overdose deaths in Colorado since 2020. This controversial piece of legislation is an attempt to reduce the increasing numbers of fentanyl deaths and overdoses in Colorado. The bill increases penalties for possessing or distributing fentanyl. Additionally, the bill increases funding into efforts that prevent overdoses deaths, such as Narcan (a nasal spray used to prevent overdoses), and other drug treatment and education campaigns. The bill has been sent to Governor Polis to sign into law.

HB22-1347- Workers' Compensation Updates: This bill changes the Workers' Compensation Act by creating a process for a claimant to receive advance payment for mileage expenses for travel. The bill also specifies how to determine a benefit amount for a medical impairment when the amount payable for a scheduled injury exceeds the amount payable for a nonscheduled injury. The bill increases the benefit payable for funeral and burial expenses from \$7,000 to \$12,500. Finally, the bill sets reporting requirements if an active medical treatment exceeds a period of more than 180 calendar days after an injury. The bill has been sent to Governor Polis to be signed into law.

HB22-1355- Producer Responsibility Program for Recycling: This bill creates an extended producer responsibility program (EPR) to provide recycling services for covered entities such as residences, businesses, school, government buildings, and public places. Additionally, the bill will cover materials such as packing materials and paper products. Extended producer responsibility programs work by including an additional fee charged by to the producer on a product to cover the cost of disposal at the end of a products life. The program will be developed by a non-profit organization that will manage the recycling program on behalf of the producers. The bill was wildly contested and split the business community. EPRs have been utilized for hard to recycle good such as paint (see PaintCare for more details), mattresses, and electronics. The bill has been sent to Governor Polis to be signed into law.

HB22-1379-Wildfire Prevention Watershed Restoration Funding: This bill allocates \$20 million to protect and mitigate wildfire risk in Colorado's watersheds. Of that \$20 million in funding, \$10 million will be allocated to the Colorado Water Conservation Board's construction fund for post-fire restoration and recovery efforts. The bill has been sent to Governor Polis to be signed into law.

HB22-1394-Fund Just Transition Community and Worker Support: This bill allocates \$5 million to the Just Transition Cash Fund and \$10 million to the Coal Transition Workforce Assistance Program. These funds will be expended by the Just Transition Office for worker support in coal communities. While the bill will not have a direct impact on the business operations of Colorado's electric cooperatives, the increased funding for just transition in coal communities will benefit the communities cooperatives serve. The bill has been sent to Governor Polis to be signed into law.