

**First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 11-0642.01 Duane Gall

**HOUSE BILL 11-1262**

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**House Committees**

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**Senate Committees**

Agriculture, Natural Resources, and Energy

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**A BILL FOR AN ACT**

101 **CONCERNING PROCEDURES TO ENSURE TRANSPARENCY IN THE**  
102 **PROCESS OF BIDDING BY ELECTRIC UTILITIES FOR THE**  
103 **ACQUISITION OF NEW GENERATION FACILITIES.**

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**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://www.leg.state.co.us/billsummaries>.)*

The bill directs the public utilities commission to adopt rules requiring investor-owned electric utilities to provide the owners of electric generating facilities with access to any modeling inputs and assumptions used by the utilities in bidding for acquisitions that directly

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

SENATE  
2nd Reading Unam ended  
March 21, 2011

HOUSE  
3rd Reading Unam ended  
February 28, 2011

HOUSE  
Am ended 2nd Reading  
February 25, 2011

relate to the owners' facilities.

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

2 **SECTION 1.** 40-6-107, Colorado Revised Statutes, is amended  
3 to read:

4 **40-6-107. Production of documents - transparency in planning**  
5 **for future acquisitions - rules.** (1) The commission may require, by  
6 order served on any public utility in the manner provided in section  
7 40-6-102 for the service of orders, the production within this state at such  
8 time and place as it may designate, of any records and documents kept by  
9 ~~said~~ THE public utility in any office or place ~~without~~ OUTSIDE OF this state,  
10 or, at its option, verified copies in lieu thereof, so that an examination  
11 ~~thereof~~ OF THE RECORDS OR DOCUMENTS may be made by the commission  
12 or under its direction.

13 (2) (a) TO ENSURE TRANSPARENCY IN THE ACQUISITION OF POWER  
14 GENERATION RESOURCES FOR THE BENEFIT OF COLORADO RATEPAYERS  
15 AND TO PROMOTE FAIRNESS IN ELECTRIC UTILITY COMPETITIVE BIDDING  
16 PROCESSES, THE COMMISSION SHALL, WITHIN NINETY DAYS AFTER THE  
17 EFFECTIVE DATE OF THIS SUBSECTION (2), COMMENCE A RULE-MAKING  
18 PROCEEDING TO ADOPT RULES, APPLICABLE AFTER THE EFFECTIVE DATE OF  
19 THIS SUBSECTION (2), TO REQUIRE AN ~~INVESTOR-OWNED~~ ELECTRIC UTILITY  
20 THAT IS EVALUATING OR HAS EVALUATED AN EXISTING OR PROPOSED  
21 ELECTRIC GENERATING FACILITY AS A POTENTIAL RESOURCE, WHETHER IN  
22 CONNECTION WITH A COMMISSION PROCEEDING OR OTHERWISE, TO  
23 PROVIDE THE OWNER OR DEVELOPER OF THE GENERATING FACILITY, UPON  
24 REQUEST, WITH REASONABLE AND TIMELY ACCESS TO THE MODELING  
25 INPUTS AND ASSUMPTIONS THAT WERE USED BY THE ~~INVESTOR-OWNED~~

1 PUBLIC UTILITY TO EVALUATE THE FACILITY AND THAT REASONABLY  
2 RELATE TO THAT FACILITY OR TO THE TRANSMISSION OF ELECTRICITY  
3 FROM THAT FACILITY TO THE INVESTOR-OWNED PUBLIC UTILITY. BIDDERS  
4 IN A COMPETITIVE ELECTRIC RESOURCE BIDDING PROCESS SHALL BE  
5 PERMITTED ACCESS TO THOSE MODELING INPUTS AND ASSUMPTIONS, AS  
6 THE MODELING INPUTS AND ASSUMPTIONS APPLY TO THE BIDDERS'  
7 PARTICULAR FACILITY, IN TIME TO ENSURE THAT ERRORS OR OMISSIONS  
8 MAY BE CORRECTED BEFORE THE COMPETITIVE BIDDING PROCESS IS  
9 COMPLETED. IF IT IS DETERMINED THAT AN ERROR OR OMISSION, AS  
10 DEFINED BY COMMISSION RULE-MAKING, EXISTS IN THE INVESTOR-OWNED  
11 PUBLIC UTILITY'S MODELING, THE COMMISSION SHALL REQUIRE THE  
12 INVESTOR-OWNED PUBLIC UTILITY TO PERFORM ADDITIONAL MODELING TO  
13 CONFIRM THAT ELECTRIC GENERATING FACILITIES ARE FAIRLY AND  
14 ACCURATELY REPRESENTED IN THE RESULTS OF ANY COMPUTER MODELING  
15 PERFORMED BY THE INVESTOR-OWNED PUBLIC UTILITY.

16 (b) IN ANY COMMISSION PROCEEDING REGARDING ELECTRIC  
17 RESOURCE PLANNING OR OTHERWISE RELATING TO THE ACQUISITION OF,  
18 CONTRACTING FOR, OR RETIREMENT OF ELECTRIC GENERATION FACILITIES,  
19 THE COMMISSION SHALL ESTABLISH PROCEDURES REGARDING THE  
20 DESIGNATION AND APPROVAL OF INFORMATION AS HIGHLY CONFIDENTIAL  
21 THAT PROTECT THE PUBLIC INTEREST AND ASSURE THAT RATEPAYERS  
22 RECEIVE THE BENEFITS OF COMPETITION AND TRANSPARENCY WHILE  
23 PROTECTING THE TRADE SECRETS OF COMPUTER MODELING SOFTWARE  
24 PRODUCERS, INDEPENDENT BIDDERS, AND THE INVESTOR-OWNED PUBLIC  
25 UTILITY.

26 **SECTION 2. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.