

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0770.01 Duane Gall

HOUSE BILL 10-1349

HOUSE SPONSORSHIP

Fischer and Pace,

SENATE SPONSORSHIP

Schwartz and Tapia,

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF RENEWABLE ENERGY RESOURCES TO SUPPLY**
102 **THE ENERGY NEEDS OF STATE GOVERNMENT, AND, IN**
103 **CONNECTION THEREWITH, COMMISSIONING THE CREATION OF**
104 **A STATEWIDE MAP OF AVAILABLE RENEWABLE ENERGY**
105 **GENERATION AREAS ON STATE LANDS AND ESTABLISHING THE**
106 **"RE-ENERGIZE COLORADO" PROGRAM IN THE DIVISION OF**
107 **PARKS AND OUTDOOR RECREATION IN THE DEPARTMENT OF**
108 **NATURAL RESOURCES.**

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

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.

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill directs the governor's energy office or its designee to create an inventory and map of lands under the control of the department of natural resources or other state agencies that have potential to support the development of renewable resource generation projects to meet the electrical energy needs of the division of parks and outdoor recreation. **Sections 2 and 3** authorize the executive director of the department of natural resources and the state land board, respectively, to include such lands among those suitable for acquisition or leasing for the purpose of allowing renewable energy generation projects to proceed.

Section 1 also creates the re-energize Colorado program, under which the division of parks and outdoor recreation is encouraged to undertake renewable energy generation projects on state land to supply or offset all of its electrical energy needs by the year 2020. Finally, Section 1 authorizes a qualifying retail utility to waive some of the existing statutory limits placed on net metering and customer-sited generation projects for purposes of meeting this goal.

Section 4 directs the public utilities commission to give the fullest possible consideration to projects under the re-energize Colorado program, especially where such projects offer good prospects for job creation and local economic growth, when considering the issuance of certificates of public convenience and necessity to utilities.

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

2 **SECTION 1.** Part 1 of article 33 of title 24, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
4 SECTIONS to read:

5 **24-33-114. Renewable resource generation development areas**
6 **- inventory of resources - fund - definitions - repeal.** (1) THE
7 GOVERNOR'S ENERGY OFFICE OR ITS DESIGNEE SHALL IDENTIFY
8 RENEWABLE RESOURCE GENERATION DEVELOPMENT AREAS ON LAND
9 OWNED, LEASED, OR OTHERWISE CONTROLLED BY THE DEPARTMENT OF
10 NATURAL RESOURCES OR OTHER STATE AGENCIES THAT HAVE THE
11 POTENTIAL TO SUPPORT THE DEVELOPMENT OF RENEWABLE RESOURCE

1 GENERATION PROJECTS TO MEET THE ELECTRICAL ENERGY NEEDS OF THE
2 DIVISION OF PARKS AND OUTDOOR RECREATION, ALSO REFERRED TO IN
3 THIS SECTION AS THE "DIVISION".

4 (2) (a) AT A MINIMUM, THE OFFICE SHALL USE GEOGRAPHIC
5 INFORMATION SYSTEMS TO DEVELOP A MAP OF AREAS OWNED, LEASED, OR
6 OTHERWISE CONTROLLED BY THE DEPARTMENT OF NATURAL RESOURCES
7 OR OTHER STATE AGENCIES THAT OFFER THE POTENTIAL FOR
8 DEVELOPMENT OF ELIGIBLE ENERGY RESOURCES, AS DEFINED IN SECTION
9 40-2-124, C.R.S., TO MEET SOME OR ALL OF THE FUTURE ELECTRICAL
10 ENERGY NEEDS OF THE DIVISION OF PARKS AND OUTDOOR RECREATION.

11 (b) IN DEVELOPING THE MAP, THE OFFICE SHALL CONSIDER,
12 WITHOUT LIMITATION:

13 (I) THE TRANSMISSION NEEDS OF THE RENEWABLE RESOURCE
14 GENERATION DEVELOPMENT AREAS TO LOCATIONS IN WHICH THE DIVISION
15 CAN USE THE RENEWABLE RESOURCES;

16 (II) THE POTENTIAL DEVELOPMENT OF ELIGIBLE ENERGY
17 RESOURCES AS DEFINED IN SECTION 40-2-124 (1) (a), C.R.S.; AND

18 (III) MITIGATION OF THE EFFECTS, IF ANY, OF THE PLACEMENT OF
19 RENEWABLE ENERGY GENERATION FACILITIES ON EXISTING VIEWSHEDS.

20 (3) **Report.** THE OFFICE SHALL ADOPT AND DELIVER THE MAP
21 DEVELOPED UNDER SUBSECTION (2) OF THIS SECTION TO THE GOVERNOR
22 AND THE GENERAL ASSEMBLY NO LATER THAN JUNE 30, 2011.

23 (4) **Funding.** (a) THE OFFICE MAY ACCEPT PRIVATE GIFTS,
24 GRANTS, AND DONATIONS TO SUPPORT THE OFFICE IN PERFORMING ITS
25 RESPONSIBILITIES SPECIFIED IN THIS SECTION. ANY SUCH GIFTS, GRANTS,
26 AND DONATIONS SHALL BE HELD IN THE RENEWABLE RESOURCE
27 GENERATION DEVELOPMENT AREAS FUND, ALSO REFERRED TO IN THIS

1 SECTION AS THE "FUND", WHICH FUND IS HEREBY CREATED IN THE STATE
2 TREASURY. THE FUND ALSO CONSISTS OF MONEYS APPROPRIATED AND
3 TRANSFERRED TO THE FUND. EARNINGS FROM INVESTMENT OF THE FUND
4 SHALL BE CREDITED TO THE FUND. MONEYS IN THE FUND SHALL BE
5 ANNUALLY APPROPRIATED TO THE OFFICE FOR THE PURPOSE OF CARRYING
6 OUT THIS SECTION. ANY UNEXPENDED OR UNENCUMBERED MONEYS
7 REMAINING IN THE FUND AS OF JUNE 30, 2011, SHALL REVERT TO THE
8 _____ FUND CREATED IN SECTION _____ TO BE USED BY THE OFFICE.

9 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE OFFICE
10 NOT BE REQUIRED TO SOLICIT GIFTS, GRANTS, OR DONATIONS FROM ANY
11 SOURCE FOR THE PURPOSES OF THIS SECTION AND THAT NO GENERAL FUND
12 MONEYS BE USED TO PAY FOR ANY EXPENSES OF THE OFFICE UNDER THIS
13 SECTION.

14 (c) IF, BY JULY 1, 2010, MONEYS IN THE FUND CREATED PURSUANT
15 TO PARAGRAPH (a) OF THIS SUBSECTION (4) HAVE NOT REACHED AN
16 AMOUNT SUFFICIENT TO PAY THE EXPENSES OF IMPLEMENTING THIS
17 SECTION, THE OFFICE SHALL NOT UNDERTAKE ANY DUTIES PURSUANT TO
18 THIS SECTION AND SHALL RETURN TO EACH GRANTOR OR DONOR AN
19 AMOUNT EQUAL TO SUCH GRANTOR'S OR DONOR'S CONTRIBUTION. THE
20 INTEREST, IF ANY, EARNED FROM THE INVESTMENT OF MONEYS IN THE
21 ACCOUNT SHALL BE TRANSFERRED TO THE GENERAL FUND.

22 (5) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
23 OTHERWISE REQUIRES, "GOVERNOR'S ENERGY OFFICE" OR "OFFICE" MEANS
24 THE GOVERNOR'S ENERGY OFFICE CREATED IN SECTION 24-38.5-101, OR
25 ANY SUCCESSOR OFFICE CREATED WITHIN THE OFFICE OF THE GOVERNOR
26 FOR THE PURPOSE OF PROMOTING RENEWABLE ENERGY.

27 (6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2011.

1 **24-33-115. Re-energize Colorado program - powers and duties**
2 **of executive director.** (1) IN ADDITION TO ALL OTHER POWERS AND

3 DUTIES CONFERRED UPON THE EXECUTIVE DIRECTOR BY LAW, THE
4 EXECUTIVE DIRECTOR IS HEREBY AUTHORIZED AND DIRECTED TO WORK
5 WITH THE GOVERNOR'S ENERGY OFFICE, THE STATE BOARD OF LAND
6 COMMISSIONERS, PUBLIC UTILITIES, AND OTHER STATE AND FEDERAL
7 AGENCIES AS NECESSARY TO INITIATE THE RE-ENERGIZE COLORADO
8 PROGRAM. THE PURPOSES OF THE PROGRAM ARE:

9 (a) TO MAXIMIZE THE ABILITY OF THE DIVISION OF PARKS AND
10 OUTDOOR RECREATION, ALSO REFERRED TO IN THIS SECTION AS THE
11 "DIVISION", TO ACHIEVE ENERGY SELF-SUFFICIENCY USING ELIGIBLE
12 ENERGY RESOURCES, AS DEFINED IN SECTION 40-2-124, C.R.S., WITH THE
13 GOAL OF GENERATING OR OFFSETTING ONE HUNDRED PERCENT OF THE
14 DIVISION'S ELECTRICAL ENERGY CONSUMPTION USING ELIGIBLE ENERGY
15 RESOURCES ON LAND OWNED, LEASED, OR CONTROLLED BY THE
16 DEPARTMENT OF NATURAL RESOURCES BY THE YEAR 2020; AND

17 (b) TO DEMONSTRATE BEST PRACTICES, FOR POTENTIAL USE BY
18 OTHER STATE AGENCIES, IN THE EFFICIENT DEPLOYMENT OF ELIGIBLE
19 ENERGY RESOURCES TO MEET THE ELECTRICAL ENERGY NEEDS OF THE
20 DIVISION IN A MANNER CONSISTENT WITH ITS GOAL AND MISSION AND THE
21 OUTDOOR EXPERIENCE OF VISITORS TO COLORADO'S PUBLIC LANDS.

22 (2) NOTWITHSTANDING SECTION 40-2-124 (1) (c) (II) (B), (1) (e)
23 (II), OR (1) (e) (III), C.R.S., OR ANY RULE OR ORDER OF THE PUBLIC
24 UTILITIES COMMISSION TO THE CONTRARY, FOR THE PURPOSE OF ENABLING
25 THE DIVISION TO ACHIEVE A NET ZERO RELIANCE ON ELECTRICITY
26 GENERATED FROM NONRENEWABLE SOURCES FOR ALL OF ITS PROPERTY,
27 WHETHER CONTIGUOUS OR NONCONTIGUOUS, A QUALIFYING RETAIL

1 UTILITY MAY, ON A CASE-BY-CASE OR PROJECT-BY-PROJECT BASIS:

2 (a) WAIVE ANY EXISTING LIMITS ON THE NET METERING OF
3 ELECTRICITY GENERATED ON CONTIGUOUS PROPERTY CONSTITUTING THE
4 CUSTOMER'S SITE;

5 (b) ALLOW AGGREGATION OF MULTIPLE SITE METERS INTO A
6 SINGLE, BIDIRECTIONAL REVENUE METER FOR NET METERING AND A
7 SINGLE PRODUCTION METER TO ACCOUNT FOR RENEWABLE ENERGY
8 CREDITS;

9 (c) WAIVE ANY EXISTING LIMITS ON GENERATING CAPACITY OR
10 CUSTOMER SERVICE ENTRANCE CAPACITY IF THE CUSTOMER PROPOSES TO
11 MAKE ANY NECESSARY UPGRADES TO ITS SERVICE ENTRANCE CAPACITY AT
12 ITS OWN EXPENSE; AND

13 (d) HAVE THE RIGHT OF FIRST REFUSAL TO PURCHASE, AND THE
14 RIGHT NOT TO PURCHASE, ELECTRICITY FROM CUSTOMER-SITED
15 RENEWABLE ENERGY GENERATING EQUIPMENT THAT IS SIZED TO SUPPLY
16 MORE THAN ONE HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL
17 CONSUMPTION OF ELECTRICITY BY THE CUSTOMER AT THAT SITE. IF THE
18 QUALIFYING RETAIL UTILITY EXERCISES ITS OPTION TO PURCHASE EXCESS
19 GENERATION UNDER THIS PARAGRAPH (d), IT MAY CLAIM RENEWABLE
20 ENERGY CREDITS BASED ON SUCH PURCHASES.

21 (3) TO ACHIEVE THE GOALS SET FORTH IN THIS SECTION, THE
22 EXECUTIVE DIRECTOR MAY USE PERFORMANCE CONTRACTING, AVAILABLE
23 CASH FUNDS, PUBLIC-PRIVATE PARTNERSHIPS WITH RELIABLE THIRD
24 PARTIES, LOAN AND GRANT PROGRAMS FUNDED OR ADMINISTERED BY ANY
25 STATE OR FEDERAL AGENCY, INCLUDING REVOLVING LOAN PROGRAMS,
26 AND ANY AVAILABLE LOAN OR BONDING MECHANISMS ESTABLISHED BY
27 COLORADO LAW.

1 **SECTION 2.** 24-33-107 (2) (a), Colorado Revised Statutes, is
2 amended to read:

3 **24-33-107. Acquisition of state lands by department - interests**
4 **in land.** (2) (a) Whenever the executive director of the department of
5 natural resources is informed that a specific piece of land held by the state
6 board of land commissioners has a characteristic that is alleged to have
7 a unique economic or environmental value for the public, INCLUDING THE
8 POTENTIAL TO SUPPORT RENEWABLE ENERGY GENERATION DEVELOPMENT
9 AS CONTEMPLATED IN SECTION 24-33-114, and that such characteristic
10 allegedly would be damaged or destroyed if the land passed to private
11 ownership, the executive director may, with the written consent of either
12 the president of the state board of land commissioners or the
13 commissioner of agriculture, give written notification to ~~said~~ THE board
14 that said land, other than agricultural or grazing rights, is subject to
15 acquisition by the department of natural resources. The notification by
16 the executive director shall identify said lands by their appropriate legal
17 description and shall specify the characteristic of the land that is alleged
18 to have unique economic or environmental value for the public. Not later
19 than during the next regular session of the general assembly, ~~said~~ THE
20 executive director shall request such authorization and appropriation as
21 may be necessary to enable the department to acquire said land or an
22 interest therein in accordance with ~~the provisions of~~ this section.

23 **SECTION 3.** 36-1-147.5 (3), Colorado Revised Statutes, is
24 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25 **36-1-147.5. Leasing arrangements for renewable energy**
26 **resources development - legislative declaration - definitions - repeal.**
27 (3) (c) (I) IF A MAP IS GENERATED PURSUANT TO SECTION 24-33-114 (2)

1 (a), C.R.S., THE STATE BOARD OF LAND COMMISSIONERS MAY USE THAT
2 MAP TO IDENTIFY STATE LANDS UNDER THE BOARD'S DIRECTION AND
3 CONTROL THAT MAY BE SUITABLE AND APPROPRIATE FOR DEVELOPMENT
4 OF ELIGIBLE ENERGY RESOURCES, AS DEFINED IN SECTION 40-2-124 (1) (a),
5 C.R.S., FOR USE BY THE DIVISION OF PARKS AND OUTDOOR RECREATION IN
6 THE DEPARTMENT OF NATURAL RESOURCES.

7 (II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2011.

8 **SECTION 4.** 40-2-123 (1), Colorado Revised Statutes, is
9 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10 **40-2-123. New energy technologies - consideration by**
11 **commission - incentives - demonstration projects - definitions -**
12 **legislative declaration - repeal.** (1) (c) THE COMMISSION SHALL GIVE
13 THE FULLEST POSSIBLE CONSIDERATION TO PROPOSALS UNDER THE
14 RE-ENERGIZE COLORADO PROGRAM, CREATED IN SECTION 24-33-115,
15 C.R.S., WITH PARTICULAR ATTENTION TO THOSE PROJECTS OFFERING THE
16 PROSPECT OF JOB CREATION AND LOCAL ECONOMIC GROWTH.

17 **SECTION 5. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.