

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

INTRODUCED

LLS NO. 11-0414.01 Christy Chase

SENATE BILL 11-071

SENATE SPONSORSHIP

Mitchell,

HOUSE SPONSORSHIP

(None),

Senate Committees
State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO REDUCE ENERGY COSTS FOR COLORADO**
102 **CONSUMERS.**

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>.)

Under current law, the public utilities commission (commission) is required, when considering utility proposals to acquire energy generation resources, to consider the cost-effective implementation of new clean energy and energy-efficient technologies and, after legislation enacted in 2008, the likelihood of new environmental regulation and the

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.

risk of higher future costs associated with greenhouse gas emissions. Legislation enacted since 2006 further requires or authorizes the commission to:

- ! Give the fullest possible consideration to proposals under the reenergize Colorado program;
- ! Consider proposals by Colorado electric utilities to propose, fund, and construct integrated gasification combined cycle generation facilities;
- ! Consider whether acquisition of utility-scale solar resources would benefit the public;
- ! Give the fullest possible consideration, at the request of a utility, to the cost-effective implementation of new energy technologies for the generation of electricity from geothermal energy or from the combustion of biomass, biosolids derived from wastewater treatment, and municipal solid waste;
- ! Give the fullest possible consideration to the cost-effective implementation of new energy technologies for the generation of electricity from methane produced biogenically in geologic strata; and
- ! Give the fullest possible consideration to projects funded wholly or in part by the federal "American Recovery and Reinvestment Act of 2009".

Section 1 of the bill repeals all requirements or authorizations enacted since 2006, thereby requiring only that the commission consider the cost-effective implementation of new clean energy and energy-efficient technologies when analyzing utility proposals to acquire energy generation resources.

Current law also requires all retail electric service providers, other than municipally owned utilities that serve 40,000 or fewer customers, to generate at least:

- ! 5% of their retail electricity from renewable energy sources through 2010;
- ! 12% of their retail electricity from renewable energy sources for 2011 through 2014;
- ! 20% of their retail electricity from renewable energy sources for 2015 through 2019; and
- ! 30% of their retail electricity from renewable energy sources for 2020 and future years.

Sections 2 and 3 restore the renewable energy standards that were initially approved by voters at the general election in 2004 in the citizen-initiated Amendment 37, which require retail electric service providers to meet a 10% renewable energy standard for 2011 and future years. Additionally, consistent with Amendment 37, only those retail electric service providers that serve more than 40,000 customers are

subject to the renewable energy standards.

Current law also permits a public utility that produces, generates, transmits, or furnishes heat, light, gas, water, power, or telephone service to establish a graduated scale of charges for the service. **Section 4** prohibits graduated scales of charges for those services.

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

SECTION 1. 40-2-123, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

40-2-123. New energy technologies - consideration by commission. THE COMMISSION SHALL GIVE THE FULLEST POSSIBLE CONSIDERATION TO THE COST-EFFECTIVE IMPLEMENTATION OF NEW CLEAN ENERGY AND ENERGY-EFFICIENT TECHNOLOGIES IN ITS CONSIDERATION OF GENERATION ACQUISITIONS FOR ELECTRIC UTILITIES, BEARING IN MIND THE BENEFICIAL CONTRIBUTIONS SUCH TECHNOLOGIES MAKE TO COLORADO'S ENERGY SECURITY, ECONOMIC PROSPERITY, ENVIRONMENTAL PROTECTION, AND INSULATION FROM FUEL PRICE INCREASES. THE COMMISSION SHALL CONSIDER UTILITY INVESTMENTS IN ENERGY EFFICIENCY TO BE AN ACCEPTABLE USE OF RATEPAYER MONEYS.

SECTION 2. The introductory portion to 40-2-124 (1) and 40-2-124 (1) (c), Colorado Revised Statutes, are REPEALED AND REENACTED, WITH AMENDMENTS, to read:

40-2-124. Renewable energy standard - definitions - net metering - legislative declaration. (1) EACH PROVIDER OF RETAIL ELECTRIC SERVICE IN THE STATE OF COLORADO THAT SERVES OVER FORTY THOUSAND CUSTOMERS IS A QUALIFYING RETAIL UTILITY. EACH QUALIFYING RETAIL UTILITY, WITH THE EXCEPTION OF COOPERATIVE ELECTRIC ASSOCIATIONS THAT HAVE VOTED TO EXEMPT THEMSELVES FROM COMMISSION JURISDICTION PURSUANT TO SECTION 40-9.5-104 AND

1 MUNICIPALLY OWNED UTILITIES, IS SUBJECT TO THE RULES ESTABLISHED
2 UNDER THIS ARTICLE BY THE COMMISSION. NO ADDITIONAL REGULATORY
3 AUTHORITY OF THE COMMISSION OTHER THAN THAT SPECIFICALLY
4 CONTAINED IN THIS SECTION IS PROVIDED OR IMPLIED. IN ACCORDANCE
5 WITH ARTICLE 4 OF TITLE 24, C.R.S., THE COMMISSION SHALL REVISE OR
6 CLARIFY EXISTING RULES TO ESTABLISH THE FOLLOWING:

7 (c) **Electric resource standards.** (I) THE ELECTRIC RESOURCE
8 STANDARDS SHALL REQUIRE EACH QUALIFYING RETAIL UTILITY TO
9 GENERATE, OR CAUSE TO BE GENERATED, ELECTRICITY FROM ELIGIBLE
10 RENEWABLE ENERGY RESOURCES IN THE FOLLOWING MINIMUM AMOUNTS:

11 (A) THREE PERCENT OF ITS RETAIL ELECTRICITY SALES IN
12 COLORADO FOR THE YEAR 2007;

13 (B) FIVE PERCENT OF ITS RETAIL ELECTRICITY SALES IN COLORADO
14 FOR THE YEARS 2008 THROUGH 2010; AND

15 (C) TEN PERCENT OF ITS RETAIL ELECTRICITY SALES IN COLORADO
16 FOR THE YEARS 2011 AND THEREAFTER.

17 (II) OF THE AMOUNTS IN SUBPARAGRAPH (I) OF THIS PARAGRAPH
18 (c), AT LEAST FOUR PERCENT SHALL BE DERIVED FROM SOLAR ELECTRIC
19 TECHNOLOGIES LOCATED ON-SITE AT CUSTOMERS' FACILITIES. AT LEAST
20 ONE-HALF OF THIS FOUR PERCENT SHALL BE DERIVED FROM SOLAR
21 ELECTRIC TECHNOLOGIES LOCATED ON-SITE AT CUSTOMERS' FACILITIES.

22 (III) EACH KILOWATT-HOUR OF RENEWABLE ELECTRICITY
23 GENERATED IN COLORADO SHALL BE COUNTED AS ONE AND ONE-QUARTER
24 KILOWATT-HOURS FOR THE PURPOSES OF COMPLIANCE WITH THIS
25 STANDARD.

26 (IV) TO THE EXTENT THAT THE ABILITY OF A QUALIFYING RETAIL
27 UTILITY TO ACQUIRE ELIGIBLE RENEWABLE ELECTRIC GENERATION IS

1 LIMITED BY A REQUIREMENTS CONTRACT WITH A WHOLESALE ELECTRIC
2 SUPPLIER, THE QUALIFYING RETAIL UTILITY SHALL ACQUIRE THE MAXIMUM
3 AMOUNT ALLOWED BY THE CONTRACT. FOR ANY SHORTFALLS TO THE
4 AMOUNTS ESTABLISHED BY THE COMMISSION PURSUANT TO
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE QUALIFYING RETAIL
6 UTILITY SHALL ACQUIRE AN EQUIVALENT AMOUNT OF EITHER RENEWABLE
7 ENERGY CREDITS, DOCUMENTED AND VERIFIED ENERGY SAVINGS THROUGH
8 ENERGY EFFICIENCY AND CONSERVATION PROGRAMS, OR A COMBINATION
9 OF BOTH. ANY CONTRACT ENTERED INTO BY A QUALIFYING RETAIL
10 UTILITY AFTER DECEMBER 1, 2004, SHALL NOT CONFLICT WITH THIS
11 ARTICLE.

12 **SECTION 3.** 40-2-124 (3) and (4), Colorado Revised Statutes,
13 are amended to read:

14 **40-2-124. Renewable energy standard - definitions - net**
15 **metering - legislative declaration.** (3) Each municipally owned electric
16 utility ~~that~~ AND EACH COOPERATIVE ELECTRIC ASSOCIATION THAT HAS
17 VOTED TO EXEMPT ITSELF FROM COMMISSION JURISDICTION BUT is a
18 qualifying retail utility shall implement a renewable energy standard
19 substantially similar to this section. The municipally owned utility OR
20 COOPERATIVE ELECTRIC ASSOCIATION shall submit a statement to the
21 commission ~~that demonstrates such~~ DEMONSTRATING THAT THE municipal
22 utility OR COOPERATIVE ELECTRIC ASSOCIATION has a substantially similar
23 renewable energy standard. The statement submitted by the municipally
24 owned utility OR COOPERATIVE ELECTRIC ASSOCIATION is for
25 informational purposes and is not subject to approval by the commission.
26 Upon filing of the certification statement, the municipally owned utility
27 ~~shall have~~ OR COOPERATIVE ELECTRIC ASSOCIATION HAS no further

1 obligations under subsection (1) of this section. The renewable energy
2 standard of a municipally owned utility OR COOPERATIVE ELECTRIC
3 ASSOCIATION shall, at a minimum, meet the following criteria:

4 (a) The eligible RENEWABLE energy resources shall be limited to
5 those identified in paragraph (a) of subsection (1) of this section;

6 (b) The percentage requirements shall be equal to or greater in the
7 same years than those identified in subparagraph ~~(V)~~ (I) of paragraph (c)
8 of subsection (1) of this section, counted in the manner allowed by
9 SUBPARAGRAPH (III) OF said paragraph (c); and

10 (c) The MUNICIPALLY OWNED utility OR COOPERATIVE ELECTRIC
11 ASSOCIATION must have an optional pricing program in effect that allows
12 retail customers the option to support through utility rates emerging
13 renewable energy technologies.

14 (4) For ~~municipal~~ MUNICIPALLY OWNED utilities AND
15 COOPERATIVE ELECTRIC ASSOCIATIONS that become qualifying retail
16 utilities after December 31, 2006, the percentage requirements identified
17 in subparagraph ~~(V)~~ (I) of paragraph (c) of subsection (1) of this section
18 shall begin in the first calendar year following qualification as follows:

19 (a) Years one through ~~three: One~~ FOUR: THREE percent of retail
20 electricity sales;

21 (b) Years ~~four~~ FIVE through ~~seven: Three~~ EIGHT: SIX percent of
22 retail electricity sales; AND

23 (c) ~~Years eight through twelve: Six percent of retail electricity~~
24 ~~sales; and~~

25 (d) Years ~~thirteen~~ NINE and thereafter: Ten percent of retail
26 electricity sales.

27 **SECTION 4.** 40-3-106 (2), Colorado Revised Statutes, is

1 amended to read:

2 **40-3-106. Advantages prohibited - consideration of household**
3 **income and other factors - definitions.** (2) ~~Nothing in articles 1 to 7 of~~
4 ~~this title shall be taken to prohibit~~ A public utility engaged in the
5 production, generation, transmission, or furnishing of heat, light, gas,
6 water, power, or telephone service ~~from establishing~~ SHALL NOT
7 ESTABLISH a graduated scale of charges ~~subject to the provisions of this~~
8 ~~title~~ FOR THE SERVICE.

9 **SECTION 5.** The introductory portion to 24-33-115 (2), Colorado
10 Revised Statutes, is amended to read:

11 **24-33-115. Reenergize Colorado program - powers and duties**
12 **of executive director - repeal.** (2) Notwithstanding section 40-2-124
13 ~~(1)(c)(H)(B)~~, (1) (e) (II) or (1) (e) (III), C.R.S., or any rule or order of
14 the public utilities commission to the contrary, for the purpose of enabling
15 the division to achieve a net zero reliance on electricity generated from
16 nonrenewable sources for all of its property, whether contiguous or
17 noncontiguous, a qualifying retail utility may, on a case-by-case or
18 project-by-project basis:

19 **SECTION 6. Repeal.** 24-38.5-102 (1) (n), Colorado Revised
20 Statutes, is repealed as follows:

21 **24-38.5-102. Governor's energy office - duties and powers.**

22 (1) The governor's energy office shall:

23 (n) ~~Provide public utilities with reasonable assistance, if~~
24 ~~requested, in seeking and obtaining support and sponsorship for an IGCC~~
25 ~~project as defined in section 40-2-123 (2) (b) (I), C.R.S., and manage and~~
26 ~~distribute to the utility some or all of any funds provided by the state or~~
27 ~~by the United States government to the state for purposes of study or~~

1 development of an IGCC project as specified in section ~~40-2-123 (2) (j)~~;
2 ~~C.R.S.~~;

3 **SECTION 7. Repeal.** 40-9.7-103 (5) (g), Colorado Revised
4 Statutes, is repealed as follows:

5 **40-9.7-103. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (5) "Clean energy" means any of the following fuels that are
8 themselves manufactured or synthesized and energy derived from any of
9 the following:

10 (g) ~~The IGCC project defined in section 40-2-123 (2) (b) (I).~~

11 **SECTION 8. Repeal.** 40-9.7-106 (1) (c) (I) (B), Colorado
12 Revised Statutes, is repealed as follows:

13 **40-9.7-106. Authority - duties and powers.** (1) The authority
14 shall:

15 (c) (I) Convene qualified task forces to develop proposed
16 recommendations for its consideration, amendment, and adoption and
17 thereafter itself adopt official recommendations for the general assembly
18 regarding the types of clean energy projects that the authority should
19 finance, refinance, or otherwise support. The authority shall convene the
20 task forces as soon as the authority determines that it has received
21 sufficient moneys from gifts, grants, donations, or project fees to
22 adequately fund the activities of the task forces. The task forces shall
23 develop and the authority shall adopt final recommendations as to:

24 (B) ~~Whether projects that involve integrated gasification~~
25 ~~combined cycle generation facilities or IGCC facilities, as defined in~~
26 ~~section 40-2-123 (2) (b) (II), other than the IGCC project described in~~
27 ~~section 40-2-123 (2) (b) (I) that is specifically defined as clean energy~~

1 ~~pursuant to section 40-9.7-103 (5) (g), or other clean coal technologies~~
2 ~~that have the potential for substantial sequestration of carbon emissions~~
3 ~~should be considered clean energy projects that the authority may finance,~~
4 ~~refinance, or otherwise support, and, if so, the nature and extent of any~~
5 ~~restrictions, including, but not limited to, specific carbon dioxide~~
6 ~~emissions sequestration requirements, that such projects should satisfy as~~
7 ~~a prerequisite to authority financing, refinancing, or other support, and~~

8 **SECTION 9. Act subject to petition - effective date.** This act
9 shall take effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part shall not take effect
15 unless approved by the people at the general election to be held in
16 November 2012 and shall take effect on the date of the official
17 declaration of the vote thereon by the governor.