

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0452.01 Thomas Morris

SENATE BILL 10-100

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SENATE SPONSORSHIP

Schwartz, Carroll M., Foster, Gibbs, Heath, Newell, Romer

HOUSE SPONSORSHIP

Miklosi,

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Senate Committees

Local Government and Energy

House Committees

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A BILL FOR AN ACT

101 CONCERNING GREATER FINANCING FLEXIBILITY FOR LOCAL DISTRICTS  
102 ORGANIZED FOR PURPOSES RELATED TO ENERGY.

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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/billssummaries>.)*

Current law prohibits local improvement districts for energy efficiency improvements and renewable energy improvements (energy LIDs) to cross county boundaries. **Sections 1, 2, and 5** of the bill allow such a district formed by a county to be created in 2 or more counties. **Sections 1 and 7** also expand the definition of "renewable energy

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.*

improvement" for energy LIDs formed by both counties and municipalities to include improvements located at a qualified community location rather than directly on a residential or commercial building.

**Sections 3 through 6** exempt energy LIDs formed by a county from a variety of inappropriate requirements that are otherwise generally applicable to local improvement districts.

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

**SECTION 1.** 30-20-602 (2) and (4.7), Colorado Revised Statutes, are amended, and the said 30-20-602 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**30-20-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(2) "District" means the geographical division of the county OR COUNTIES within which any local improvements are made or proposed, when so declared by resolution of the board. Except for a district in the unincorporated area of a county in which a sales tax is levied pursuant to section 30-20-604.5, there may be noncontiguous parts or sections of a county included in one district, but no district shall include territory that is included in an undissolved district that was formed for the same type of improvement. Notwithstanding any other provision of this part 6 and except in the case of a district formed prior to December 31, 2002, by a city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado, no district in which a sales tax is levied pursuant to section 30-20-604.5 shall be formed that includes territory within a municipality, and any such district shall be as compact as possible. EXCEPT AS PROVIDED IN SECTION 30-20-603 (11.5) (b) (I), no district that crosses county boundaries may be formed by

1 intergovernmental agreement or otherwise.

2 (4.3) "QUALIFIED COMMUNITY LOCATION" MEANS AN OFF-SITE  
3 LOCATION OF A RENEWABLE ENERGY IMPROVEMENT THAT:

4 (a) IS OWNED, THROUGH EITHER AN UNDIVIDED OR A FRACTIONAL  
5 INTEREST, BY THE OWNER OF THE RESIDENTIAL OR COMMERCIAL BUILDING  
6 THAT IS DIRECTLY BENEFITED BY THE RENEWABLE ENERGY IMPROVEMENT;

7 (b) PROVIDES ENERGY AS A DIRECT CREDIT ON THE OWNER'S  
8 UTILITY BILL; AND

9 (c) IS AN ENCUMBRANCE ON THE PROPERTY SPECIFICALLY  
10 BENEFITED.

11 (4.7) (a) "Renewable energy improvement" means a fixture,  
12 product, system, device, or interacting group of devices ~~installed behind~~  
13 ~~the meter of any residential and commercial building~~ that produces energy  
14 from renewable resources, including ~~but not limited to~~, photovoltaic  
15 systems, solar thermal systems, small wind systems, biomass systems, or  
16 geothermal systems, as may be included in the approval of the district by  
17 the board, ~~except that~~ AND THAT EITHER:

18 (I) IS INSTALLED BEHIND THE METER OF A RESIDENTIAL OR  
19 COMMERCIAL BUILDING; OR

20 (II) DIRECTLY BENEFITS A RESIDENTIAL OR COMMERCIAL BUILDING  
21 THROUGH A QUALIFIED COMMUNITY LOCATION.

22 (b) No renewable energy improvement shall be authorized that  
23 interferes with a right held by a public utility under a certificate issued by  
24 the public utilities commission under article 5 of title 40, C.R.S. The  
25 public utilities commission ~~shall have~~ HAS primary jurisdiction to  
26 adjudicate disputes as to whether a renewable energy improvement  
27 interferes with such a right.

1           **SECTION 2.** 30-20-603 (11.5), Colorado Revised Statutes, is  
2 amended to read:

3           **30-20-603. Improvements and funding authorized - how**  
4 **instituted - conditions.** (11.5) (a) Any other provision of this part 6  
5 notwithstanding, the board may initiate an improvement district for the  
6 purpose of encouraging, accommodating, and financing improvements of  
7 a character authorized by paragraph (e) of subsection (1) of this section.  
8 Any such district shall include only property for which the owner has  
9 executed a contract or agreement consenting to the inclusion of such  
10 property within the district, and such consent may occur subsequent to the  
11 adoption of the resolution of the board forming the district. The inclusion  
12 of such property within the district subsequent to the adoption of the  
13 resolution of the board forming the district may be made by the adoption  
14 of a supplemental or amending resolution of the board. For districts  
15 formed for the purpose of encouraging, accommodating, and financing  
16 renewable energy improvements or energy efficiency improvements, ~~the~~  
17 ~~provisions of~~ subsections (4), ~~and~~ (5), ~~AND~~ (6) of this section concerning  
18 competitive bidding, ~~and~~ preliminary plans and specifications, ~~of~~ ~~AND~~  
19 NOTICE, section 30-20-601 concerning construction under the direction of  
20 county officers, ~~of~~ section 30-20-622 concerning contracts for  
21 construction, and ~~of~~ section 30-20-623 concerning contract provisions  
22 shall DO not apply. For such districts, the owner of property within a  
23 district may arrange improvements that qualify pursuant to the resolution  
24 of the board authorizing improvements for the district and may obtain  
25 financing for said improvements from the district through the process set  
26 forth in the resolution forming the district.

27           (b) (I) DISTRICTS FORMED FOR THE PURPOSES AUTHORIZED IN

1 PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION MAY CROSS COUNTY  
2 BOUNDARIES AND INCLUDE PROPERTIES IN MULTIPLE COUNTIES, WHETHER  
3 SUCH COUNTIES ARE CONTIGUOUS OR NONCONTIGUOUS, IF THE BOARDS OF  
4 COUNTY COMMISSIONERS OF THE AFFECTED COUNTIES HAVE ENTERED  
5 INTO AN INTERGOVERNMENTAL AGREEMENT OR MEMORANDUM OF  
6 UNDERSTANDING REGARDING THE SHARING OF INCREMENTAL COSTS  
7 ATTRIBUTABLE TO THE DISTRICT'S CROSSING OF COUNTY BOUNDARIES,  
8 WITH SUCH COSTS BECOMING PART OF THE TOTAL ASSESSMENT  
9 ALLOCATED TO EACH PARTICIPATING LANDOWNER.

10 (II) FOR ANY DISTRICT THAT MAY INCLUDE PROPERTIES IN OTHER  
11 COUNTIES, THE BOARD SHALL NOTIFY THE BOARDS OF COUNTY  
12 COMMISSIONERS AND THE COUNTY TREASURERS OF SUCH COUNTIES, AT  
13 LEAST TEN DAYS IN ADVANCE OF THE PUBLIC MEETING AT WHICH IT WILL  
14 BE DISCUSSED, OF THE POTENTIAL INCLUSION OF SUCH PROPERTIES. THE  
15 ORIGINATING BOARD SHALL CONSIDER COMMENTS SENT BY SUCH BOARDS  
16 OF COUNTY COMMISSIONERS OR COUNTY TREASURERS CONCERNING THE  
17 POTENTIAL ADDITION OF PROPERTIES FROM THEIR COUNTIES IF THE  
18 COMMENTS HAVE BEEN RECEIVED BY THE DATE OF THE PUBLIC MEETING.

19 (III) IF A MUNICIPALITY THAT HAS TERRITORY IN MULTIPLE  
20 COUNTIES, ONE OF WHICH HAS CREATED A DISTRICT FOR THE PURPOSES  
21 AUTHORIZED IN PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION,  
22 DESIRES TO CONSENT TO THE INCLUSION WITHIN SUCH DISTRICT OF ANY OF  
23 THE PROPERTIES WITHIN ITS ENTIRE INCORPORATED BOUNDARY, THE  
24 MUNICIPALITY SHALL EXPRESSLY STATE IN ITS ORDINANCE GRANTING  
25 CONSENT THAT ANY PROPERTY LOCATED IN THE MUNICIPALITY,  
26 IRRESPECTIVE OF THE COUNTY IN WHICH SUCH PROPERTY IS LOCATED, MAY  
27 BE INCLUDED IN THE DISTRICT.

1           **SECTION 3.** 30-20-609, Colorado Revised Statutes, is amended  
2 to read:

3           **30-20-609. Hearing on objections.** EXCEPT FOR A DISTRICT  
4 FORMED FOR THE PURPOSES AUTHORIZED IN SECTION 30-20-603 (11.5), at  
5 the time specified in ~~said~~ THE notice REQUIRED PURSUANT TO SECTION  
6 30-20-608 (1) or at some adjourned time, the board shall hear and  
7 determine all such complaints and objections and may ~~thereupon~~, make  
8 such modifications and changes as may seem equitable and just or may  
9 confirm the first apportionment. The board shall, ~~thereupon~~ by  
10 resolution, assess the cost of ~~said~~ THE improvements, and the passage of  
11 ~~such~~ THE resolution shall be prima facie evidence of the fact that the  
12 property assessed is benefited in the amount of the assessments and that  
13 ~~such~~ THE assessments have been lawfully levied.

14           **SECTION 4.** 30-20-616 (1), Colorado Revised Statutes, is  
15 amended to read:

16           **30-20-616. Payment in full - assessment roll returned -**  
17 **payment of share.** (1) EXCEPT FOR A DISTRICT FORMED FOR THE  
18 PURPOSES AUTHORIZED IN SECTION 30-20-603 (11.5), AS TO WHICH THE  
19 ASSESSMENTS SHALL BE PAID PURSUANT TO THE CONTRACTS AND  
20 AGREEMENTS ENTERED INTO BY THE OWNER OF THE ASSESSED PROPERTY,  
21 payment may be made to the county treasurer at any time within thirty  
22 days after the effective date of the assessing resolution. At the expiration  
23 of said thirty-day period, the county treasurer shall return the local  
24 assessment roll to the county clerk and recorder, therein showing all  
25 payments made thereon, with the date of each payment. ~~Said roll~~ THE  
26 COUNTY CLERK AND RECORDER shall ~~be certified by the county clerk and~~  
27 ~~recorder~~ CERTIFY THE ROLL under the seal of the county and ~~by him~~

1 ~~delivered~~ DELIVER IT to the county treasurer, with ~~his~~ THE CLERK'S  
2 warrant for the collection of the same. The county treasurer shall  
3 PROVIDE A receipt for the ~~same~~ THE ROLL, and all such rolls shall be  
4 numbered for convenient reference.

5 **SECTION 5.** 30-20-619 (1) and (8), Colorado Revised Statutes,  
6 are amended to read:

7 **30-20-619. Issuing bonds - property specially benefited.**

8 (1) For the purpose of paying all or such portion of the cost of any  
9 improvement constructed or acquired under the provisions of this part 6  
10 as may be assessed against the property specially benefited and not paid  
11 by the sales tax authorized by section 30-20-604.5 or by the county,  
12 special assessment bonds of the county may be issued, of such date, in  
13 such form, and on such terms, including, without limitation, provisions  
14 for their sale, payment, and redemption, as may be prescribed by the  
15 board, bearing the name of the street or district improved and payable in  
16 a sufficient period of years after such date to cover the period of payment  
17 provided, and in convenient denominations. All such bonds shall be  
18 issued upon estimates approved by the board, and the county treasurer  
19 shall preserve a record of the same in a suitable book kept for that  
20 purpose. All such bonds shall be subscribed by the chair of the board,  
21 countersigned by the county treasurer, with the county seal ~~thereto~~  
22 affixed, and attested by the county clerk and recorder; EXCEPT THAT THE  
23 COUNTY TREASURER NEED NOT COUNTERSIGN A BOND ISSUED BY A  
24 DISTRICT FORMED FOR THE PURPOSES AUTHORIZED IN SECTION 30-20-603  
25 (11.5). Such bonds shall be payable out of the moneys collected on  
26 account of the assessments made for said improvements, from reserve  
27 accounts, if any, established to secure the payment of such bonds, and

1 from any other legally available moneys. All moneys collected from such  
2 assessments for any improvement shall be applied to the payment of the  
3 bonds issued, until payment in full is made of all the bonds, both principal  
4 and interest, or to fund or replenish reserve accounts, if any, established  
5 to secure the payment of such bonds. The bonds may be sold, under such  
6 terms and conditions as are established by the board, in such amounts as  
7 will be sufficient to pay for the cost of the improvements.

8 (8) Notwithstanding any other provision of this part 6, any district  
9 formed for the purpose of encouraging, accommodating, and financing  
10 improvements as authorized in section 30-20-603 (11.5) may be  
11 authorized to:

12 (a) Issue one or more series of bonds, and bonds of any such  
13 district may be payable from the assessments levied pursuant to one or  
14 more assessment resolutions; AND

15 (b) JOINTLY FINANCE THE IMPROVEMENTS OF MULTIPLE SUCH  
16 DISTRICTS LOCATED IN ONE OR MORE COUNTIES BY INTERGOVERNMENTAL  
17 AGREEMENT OF THE ORGANIZING COUNTIES OR THROUGH OTHER LEGALLY  
18 AVAILABLE MEANS. SUCH INTERGOVERNMENTAL AGREEMENT MAY  
19 INCLUDE PROVISIONS FOR, AMONG OTHER THINGS, THE TRANSFER OF  
20 REVENUES COLLECTED PURSUANT TO THIS PART 6, INCLUDING  
21 ASSESSMENT PAYMENTS, PENALTY PAYMENTS PURSUANT TO SECTION  
22 30-20-615, AND PROPERTY SALE PROCEEDS PURSUANT TO SECTION  
23 30-20-617, FROM THE COUNTY TREASURER OF THE COUNTY IN WHICH A  
24 PROPERTY IS LOCATED TO THE COUNTY TREASURER FOR THE COUNTY  
25 ISSUING BONDS PURSUANT TO THIS SECTION.

26 **SECTION 6.** 30-20-627, Colorado Revised Statutes, is amended  
27 to read:



1           **30-20-627. Local improvements completed - dissolution.** ~~At the~~  
2 ~~time that~~ WHEN the local improvements specified in the preliminary order  
3 referred to in section 30-20-603 (5) and specified in the resolution  
4 authorizing the improvements have been completed and any debt incurred  
5 or bonds issued have been paid, the board shall take all steps necessary  
6 to dissolve the district and, upon completion of such steps, shall declare,  
7 by resolution, that the district is dissolved; EXCEPT THAT THIS  
8 REQUIREMENT DOES NOT APPLY TO A DISTRICT FORMED FOR THE PURPOSES  
9 AUTHORIZED IN SECTION 30-20-603 (11.5). Upon dissolution, any moneys  
10 remaining to the credit of such district that have not been transferred to  
11 a special surplus and deficiency fund as permitted in section 30-20-619  
12 (3) may be used for any county purpose as determined by the board,  
13 including, without limitation, the reimbursement to the county of any  
14 county moneys spent to provide any portion of the costs of the local  
15 improvements completed within the dissolved district.

16           **SECTION 7.** 31-25-501 (4), Colorado Revised Statutes, is  
17 amended, and the said 31-25-501 is further amended BY THE  
18 ADDITION OF A NEW SUBSECTION, to read:

19           **31-25-501. Definitions.** As used in this part 5, unless the context  
20 otherwise requires:

21           (3.5) "QUALIFIED COMMUNITY LOCATION" MEANS AN OFF-SITE  
22 LOCATION OF A RENEWABLE ENERGY IMPROVEMENT THAT:

23           (a) IS OWNED, THROUGH EITHER AN UNDIVIDED OR A FRACTIONAL  
24 INTEREST, BY THE OWNER OF THE RESIDENTIAL OR COMMERCIAL BUILDING  
25 THAT IS DIRECTLY BENEFITED BY THE RENEWABLE ENERGY IMPROVEMENT;

26           (b) PROVIDES ENERGY AS A DIRECT CREDIT ON THE OWNER'S  
27 UTILITY BILL; AND

1 (c) IS AN ENCUMBRANCE ON THE PROPERTY SPECIFICALLY  
2 BENEFITED.

3 (4) "Renewable energy improvement" means a fixture, product,  
4 system, device, or interacting group of devices ~~installed behind the meter~~  
5 ~~of any residential or commercial building~~ that produces energy from  
6 renewable resources, including ~~but not limited to~~, photovoltaic systems,  
7 solar thermal systems, small wind systems, biomass systems, or  
8 geothermal systems, as may be authorized by the governing body, AND  
9 THAT EITHER:

10 (a) IS INSTALLED BEHIND THE METER OF A RESIDENTIAL OR  
11 COMMERCIAL BUILDING; OR

12 (b) DIRECTLY BENEFITS A RESIDENTIAL OR COMMERCIAL BUILDING  
13 THROUGH A QUALIFIED COMMUNITY LOCATION.

14 **SECTION 8. Applicability.** This act shall apply to conduct  
15 occurring on or after the effective date of this act.

16 **SECTION 9. Safety clause.** The general assembly hereby finds,  
17 determines, and declares that this act is necessary for the immediate  
18 preservation of the public peace, health, and safety.