

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

REREVISED

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

LLS NO. 13-0877.01 Duane Gall x4335

SENATE BILL 13-273

SENATE SPONSORSHIP

Schwartz and Nicholson,

HOUSE SPONSORSHIP

Hamner and Coram,

Senate Committees

Agriculture, Natural Resources, & Energy
Appropriations

House Committees

Agriculture, Livestock, & Natural Resources

HOUSE
3rd Reading Unamended
May 7, 2013

HOUSE
Amended 2nd Reading
May 6, 2013

A BILL FOR AN ACT

101 **CONCERNING INCENTIVES FOR THE BENEFICIAL USE OF FOREST**
102 **BIOMASS.**

SENATE
3rd Reading Unamended
April 29, 2013

SENATE
Amended 2nd Reading
April 26, 2013

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>.)

Sections 1 and 2 of the bill declare that reducing the large amount of diseased timber in Colorado by encouraging the use of forest biomass for energy generation and material for forest industry development will reduce the risk of future catastrophic wildfires, benefit the state's economy, and address Colorado communities' long-term forest health

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.*

needs. Section 2 also directs the state forest service to collaborate with federal agencies to facilitate the use of forest biomass as feedstock for timber mills and other industries and for renewable energy generation.

Section 3 encourages a community that adopts or updates its community wildfire protection plan (CWPP) to incorporate, as part of the CWPP, a biomass utilization plan developed in consultation with the state forest service.

Section 6 directs the office of economic development to apply tax credits and other incentives for the use of forest biomass in forest products industries and for biomass energy generation. The incentives would apply to facilities in the "red zones" of high wildfire risk as well as in existing enterprise zones.

Section 4 authorizes the executive director of the department of revenue to evaluate, apply, and publicize the application of economic development tax credits and other incentives described in section 6.

Section 5 authorizes the air quality control commission to analyze equipment fueled by biomass (e.g., wood-burning stoves, etc.) for compliance with emissions standards and publish the results for units of less than 1 million BTU per hour.

Section 7 requires the public utilities commission, when evaluating proposed new sources of supply for electric utilities, to consider the potential contributions of those sources to wildfire risk mitigation specifically, in addition to environmental protection generally.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 finds, determines, and declares that, due to recent droughts and insect
4 infestations, Colorado now has over four million acres of forest land that
5 need to be selectively cut to remove potentially hazardous fuels, including
6 diseased timber, that represent an imminent threat to our communities,
7 public utility infrastructure, and watersheds due to the risk of catastrophic
8 wildfires. The removal of these hazardous fuels and their use as a
9 feedstock for renewable energy generation and forest products industries
10 to support regional economic development will substantially promote the
11 public safety and welfare of Colorado communities in forested areas
12 while benefiting the state's economy and building private-sector capacity

1 to address these communities' long-term forest health needs.

2 **SECTION 2.** In Colorado Revised Statutes, 23-31-301, **amend**
3 (2); and **add** (1) (i.5) as follows:

4 **23-31-301. Legislative declaration.** (1) The general assembly
5 hereby finds that:

6 (i.5) THESE GOALS WILL BE FURTHER ADVANCED THROUGH THE
7 COORDINATION OF EFFORTS TO CREATE COMMUNITY-BASED SOLUTIONS TO
8 RESTORE COLORADO FOREST ECOSYSTEMS, PROMOTE FOREST INDUSTRIES,
9 AND STIMULATE RURAL ECONOMIES THROUGH THE GENERATION OF CLEAN
10 ENERGY FROM FOREST BIOMASS.

11 (2) (a) The general assembly hereby declares that it is the public
12 policy of this state to encourage the health of forest ecosystems through
13 responsible management of the forest land of the state and through
14 coordination with the United States secretary of the interior and the
15 United States secretary of agriculture to develop management plans for
16 federal lands within the state of Colorado pursuant to 16 U.S.C. sec. 530,
17 16 U.S.C. sec. 1604, and 43 U.S.C. sec. 1712, including THE FOLLOWING:
18 The use of prescribed and natural ignition fires and other pre-suppression
19 activities, such as the harvest AND PROFITABLE UTILIZATION of materials,
20 in order to preserve forest and other natural resources; enhance the
21 growth and maintenance of forests; conserve forest cover on watersheds;
22 protect recreational, wildlife, and other values; promote stability of
23 forest-using industries; and prevent loss of life and damage to property
24 from wildfires and other conflagrations.

25 (b) IN ADDITION TO ANY OTHER POWERS AND DUTIES CONFERRED
26 UPON THE COLORADO STATE FOREST SERVICE BY LAW, THE COLORADO
27 STATE FOREST SERVICE MAY:

1 (I) VALUE FOREST MATERIALS ON STATE LANDS USING LOWEST
2 MARKET VALUE AS AN INCENTIVE TO MAXIMIZE THE UTILIZATION OF THESE
3 PRODUCTS; AND

4 (II) COLLABORATE WITH THE UNITED STATES FOREST SERVICE
5 AND THE BUREAU OF LAND MANAGEMENT TO CONTRACT FOR A RELIABLE
6 SOURCE OF FEEDSTOCK CONSISTENT WITH COLORADO COMMUNITIES'
7 PLANS FOR UTILIZATION OF FOREST BIOMASS DESCRIBED IN SECTION
8 23-31-312 (3.5).

9 **SECTION 3.** In Colorado Revised Statutes, 23-31-312, **add** (2)
10 (c) and (3.5) as follows:

11 **23-31-312. Community wildfire protection plans - biomass**
12 **utilization plans - county governments - guidelines and criteria -**
13 **legislative declaration - definitions.** (2) As used in this section, unless
14 the context otherwise requires:

15 (c) "RED ZONE" MEANS A WILDLAND-URBAN INTERFACE AREA OF
16 HIGH WILDFIRE RISK IN COLORADO, IDENTIFIED BY THE RED ZONE MAP
17 ORIGINALLY CREATED IN SEPTEMBER 2004 BY THE COLORADO STATE
18 FOREST SERVICE AND PERIODICALLY UPDATED TO SHOW AREAS WHERE A
19 HIGH RISK OF CATASTROPHIC WILDFIRE ENDANGERS HOMES, COMMUNITIES,
20 UTILITIES, AND WATERSHEDS.

21 (3.5) WHEN A COMMUNITY WITHIN A RED ZONE ADOPTS OR
22 UPDATES A CWPP, THE COMMUNITY IS ENCOURAGED TO INCLUDE, AS AN
23 ELEMENT OF THE CWPP, A PLAN FOR COMMUNITY-BASED AND
24 SUSTAINABLE UTILIZATION OF FOREST BIOMASS FOR THE PRODUCTION OF
25 ENERGY, FUELS, FOREST PRODUCTS, AND OTHER APPLICATIONS,
26 DEVELOPED IN CONSULTATION WITH THE COLORADO STATE FOREST
27 SERVICE. AS PART OF THE PLAN, THE STATE FORESTER OR THE STATE

1 FORESTER'S DESIGNEE MAY OFFER ASSISTANCE TO THE COMMUNITIES IN
2 IDENTIFYING, CONTRACTING FOR, AND SECURING PRIMARILY FROM
3 HIGH-RISK AREAS A RELIABLE SOURCE OF FEEDSTOCK IN SUPPORT OF
4 FOREST PRODUCTS INDUSTRIES.

5

6 **SECTION 4.** In Colorado Revised Statutes, 25-7-105, **add** (20)
7 as follows:

8 **25-7-105. Duties of commission - rules.** (20) THE COMMISSION
9 MAY, WITHIN EXISTING RESOURCES:

10 (a) ANALYZE A RANGE OF RESIDENTIAL, COMMERCIAL, AND
11 INDUSTRIAL BIOMASS EQUIPMENT FOR AIR EMISSIONS STANDARDS;

12 (b) IDENTIFY BIOMASS EQUIPMENT THAT MEETS THE EMISSIONS
13 STANDARDS; AND

14 (c) PUBLICLY POST A STATEMENT OF THE PARAMETERS FOR
15 EQUIPMENT FUELED BY BIOMASS THAT IS SMALLER THAN ONE MILLION
16 BRITISH THERMAL UNITS, AS DEFINED IN SECTION 8-20-201 (1.3), C.R.S.,
17 PER HOUR AND INCLUDE A LIST OF BIOMASS EQUIPMENT THAT MEETS THE
18 EMISSIONS STANDARDS.

19 **SECTION 5.** In Colorado Revised Statutes, 37-95-103, **amend**
20 **(4.9) as follows:**

21 **37-95-103. Definitions.** As used in this article:

22 **(4.9) "Forest health project" means:**

23 **(a) An undertaking that improves the health of a forest, including,**
24 **but not limited to:**

25 **(a) (I) Reducing the threat of uncharacteristically large or intense**
26 **insect diseases and epidemics;**

27 **(b) (II) Reducing the impact of uncharacteristically large or**

1 high-intensity wildfires;
2 (c) (III) Reducing the impact of undesirable nonnative species;
3 (d) (IV) Replanting trees in deforested areas; or
4 (e) (V) Improving the use of, or adding value to, small diameter
5 trees; AND
6 (b) A PROJECT TO HARVEST WOODY VEGETATION FOR, OR USE
7 WOODY VEGETATION IN, THE PRODUCTION OF ENERGY, FUELS, FOREST
8 PRODUCTS, OR OTHER APPLICATIONS. THE PROJECT MAY, BUT NEED NOT,
9 CONSTITUTE ALL OR PART OF A PLAN ADOPTED BY A COMMUNITY UNDER
10 SECTION 23-31-312 (3.5), C.R.S.

11 **SECTION 6.** In Colorado Revised Statutes, 40-2-123, **amend** (1)
12 (a) as follows:

13 **40-2-123. New energy technologies - consideration by**
14 **commission - incentives - demonstration projects - definitions -**
15 **legislative declaration - repeal.** (1) (a) The commission shall give the
16 fullest possible consideration to the cost-effective implementation of new
17 clean energy and energy-efficient technologies in its consideration of
18 generation acquisitions for electric utilities, bearing in mind the beneficial
19 contributions such technologies make to Colorado's energy security,
20 economic prosperity, ~~INSULATION FROM FUEL PRICE INCREASES, AND~~
21 ~~environmental protection, and insulation from fuel price increases~~
22 ~~INCLUDING RISK MITIGATION IN AREAS OF HIGH WILDFIRE RISK AS~~
23 ~~DESIGNATED BY THE STATE FOREST SERVICE.~~ The commission shall
24 consider utility investments in energy efficiency to be an acceptable use
25 of ratepayer moneys.

26 **SECTION 7. 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.