

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0784.02 Duane Gall x 4335

SENATE BILL 21-272

SENATE SPONSORSHIP

Hansen and Fenberg, Jaquez Lewis, Lee, Moreno, Pettersen, Priola, Story

HOUSE SPONSORSHIP

Bernett,

Senate Committees

Transportation & Energy
Finance
Appropriations

House Committees

State, Civic, Military, & Veterans Affairs
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE OPERATIONS OF THE PUBLIC UTILITIES COMMISSION,**
102 **AND, IN CONNECTION THEREWITH, MODERNIZING THE**
103 **COMMISSION'S STATUTORY DIRECTIVES REGARDING**
104 **DISTRIBUTED GENERATION OF ELECTRICITY; REQUIRING**
105 **ADDITIONAL DISCLOSURE FROM INTERVENORS IN ADVERSARIAL**
106 **PROCEEDINGS; AND PROVIDING THE COMMISSIONERS WITH**
107 **ACCESS TO INDEPENDENT SUBJECT-MATTER EXPERTS.**

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://leg.colorado.gov>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
June 1, 2021

SENATE
Amended 2nd Reading
May 28, 2021

Section 1 of the bill authorizes the allocation of up to \$250,000 per year of the money that the commission receives from the public utilities commission fixed utility fund for outside consultants and experts.

Section 2 requires an intervenor in a commission matter to disclose any financial relationship between that intervenor and any other intervenor in the matter.

Section 3 directs the commission to adopt rules to require the commission, when considering any matter before the commission, to improve equity and prioritize disproportionately impacted communities.

Under current law, the annual fee collected from each regulated public utility is capped at 0.25% of the public utility's gross intrastate utility operating revenue for the preceding calendar year; except that the annual fee collected from a public utility that is a telephone corporation is capped at 0.20% of the telephone corporation's gross intrastate utility operating revenue for the preceding calendar year. **Section 4** removes the cap on annual fees collected from regulated public utilities.

Section 5 requires the commission to promulgate rules requiring qualifying retail utilities subject to the renewable energy standard to retire renewable energy credits in a manner that benefits cities, counties, and businesses in the state and is consistent with timely attainment of the state's clean energy and climate goals.

Section 6 requires the commission to promulgate rules to establish fixed rates for net metering credits provided to community solar garden subscribers on their electric bills.

With respect to the retirement of any electric generating facility, **section 7** requires an investor-owned electric utility to submit, and the commission to consider, net present value of revenue requirement projections, one based on using Colorado energy impact bonds and one based on not using Colorado energy impact bonds.

Section 8 requires the commission, in approving a resource plan, to include the social cost of carbon dioxide with regard to a portfolio's net present value of revenue requirements.

Section 9 requires each regulated public utility that uses resource planning software to provide commission staff with licenses to the software and with model assumptions used for the software.

Section 10 expands the time for the commission to issue a decision on an application that is not accompanied by prefiled testimony and exhibits from 210 days to 250 days after the commission has deemed the application complete.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-2-104, **add** (4) as

1 follows:

2 **40-2-104. Assistants and employees - utilization of**
3 **independent experts.** (4) (a) OF THE MONEY THAT THE COMMISSION
4 RECEIVES FROM THE PUBLIC UTILITIES COMMISSION FIXED UTILITY FUND
5 PURSUANT TO SECTION 40-2-114 (1)(b)(II), UP TO TWO HUNDRED FIFTY
6 THOUSAND DOLLARS PER YEAR MAY BE ALLOCATED TO PERSONAL
7 SERVICES CONTRACTS WITH OUTSIDE CONSULTANTS AND EXPERTS THAT
8 MEET CRITERIA SPECIFIED BY THE COMMISSION.

9 (b) THE AMOUNT ALLOCATED FOR OUTSIDE CONSULTANTS AND
10 EXPERTS PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION SHALL BE
11 ADJUSTED ANNUALLY IN ACCORDANCE WITH CHANGES IN THE UNITED
12 STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS
13 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL
14 ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

15 **SECTION 2.** In Colorado Revised Statutes, **add** 40-2-104.5 as
16 follows:

17 **40-2-104.5. Financial disclosures by intervenors.** (1) AN
18 INTERVENOR IN ANY MATTER BEFORE THE COMMISSION SHALL DISCLOSE
19 ANY OF THE FOLLOWING RELATIONSHIPS THAT EXISTS OR, WITHIN THE
20 IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS, EXISTED BETWEEN THE
21 INTERVENOR AND THE REGULATED UTILITY IN THE MATTER:

22 (a) ANY CORPORATE AFFILIATION WITH THE REGULATED UTILITY;

23 (b) THE RECEIPT OF ANY FUNDING FROM THE REGULATED UTILITY;

24 OR

25 (c) ANY OTHER FINANCIAL RELATIONSHIP BETWEEN THE
26 INTERVENOR AND THE REGULATED UTILITY.

27 (2) THE COMMISSION SHALL PUBLISH ON ITS WEBSITE ALL

1 DISCLOSURES MADE PURSUANT TO THIS SECTION.

2 **SECTION 3.** In Colorado Revised Statutes, 40-2-108, **add** (3) as
3 follows:

4 **40-2-108. Rules - definitions.** (3) (a) THE COMMISSION SHALL
5 PROMULGATE RULES REQUIRING THAT THE COMMISSION, IN ALL OF ITS
6 WORK INCLUDING ITS REVIEW OF ALL FILINGS AND ITS DETERMINATION OF
7 ALL ADJUDICATIONS, CONSIDER HOW BEST TO PROVIDE EQUITY, MINIMIZE
8 IMPACTS, AND PRIORITIZE BENEFITS TO DISPROPORTIONATELY IMPACTED
9 COMMUNITIES AND ADDRESS HISTORICAL INEQUALITIES.

10 (b) IN PROMULGATING RULES PURSUANT TO THIS SUBSECTION (3),
11 THE COMMISSION SHALL IDENTIFY DISPROPORTIONATELY IMPACTED
12 COMMUNITIES. IN IDENTIFYING THE COMMUNITIES, THE COMMISSION
13 SHALL CONSIDER MINORITY, LOW-INCOME, TRIBAL, OR INDIGENOUS
14 POPULATIONS IN THE STATE THAT EXPERIENCE DISPROPORTIONATE
15 ENVIRONMENTAL HARM AND RISKS RESULTING FROM SUCH FACTORS AS
16 INCREASED VULNERABILITY TO ENVIRONMENTAL DEGRADATION, LACK OF
17 OPPORTUNITY FOR PUBLIC PARTICIPATION, OR OTHER FACTORS. INCREASED
18 VULNERABILITY MAY BE ATTRIBUTABLE TO AN ACCUMULATION OF
19 NEGATIVE OR A LACK OF POSITIVE ENVIRONMENTAL, HEALTH, ECONOMIC,
20 OR SOCIAL CONDITIONS WITHIN THESE POPULATIONS.

21 (c) AS USED IN THIS SUBSECTION (3):

22 (I) "COST-BURDENED" MEANS A HOUSEHOLD THAT SPENDS MORE
23 THAN THIRTY PERCENT OF ITS INCOME ON HOUSING.

24 (II) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A
25 COMMUNITY THAT IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN
26 ACCORDANCE WITH THE MOST RECENT UNITED STATES DECENNIAL
27 CENSUS, WHERE THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME

1 IS GREATER THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS
2 THAT IDENTIFY AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE
3 PROPORTION OF HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS
4 GREATER THAN FORTY PERCENT.

5 (III) "FEDERAL POVERTY LINE" HAS THE SAME MEANING AS
6 "POVERTY LINE", AS DEFINED IN 42 U.S.C. SEC. 9902 (2).

7 (IV) "LOW INCOME" MEANS MEETING THE THRESHOLD FOR
8 ASSISTANCE UNDER THE RELEVANT PROGRAM OR REGULATORY
9 PROCEEDING IN WHICH THE COMMISSION IS CONDUCTING ITS REVIEW OR
10 ADJUDICATION. THE THRESHOLD MAY INCLUDE ONE OR MORE OF THE
11 FOLLOWING, WITHOUT LIMITATION:

12 (A) MEDIAN HOUSEHOLD INCOME LESS THAN OR EQUAL TO TWO
13 HUNDRED PERCENT OF THE FEDERAL POVERTY LINE;

14 (B) MEDIAN HOUSEHOLD INCOME LESS THAN OR EQUAL TO EIGHTY
15 PERCENT OF AREA MEDIAN INCOME; OR

16 (C) QUALIFICATION UNDER INCOME GUIDELINES ADOPTED BY THE
17 DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 40-8.5-105.

18 **SECTION 4.** In Colorado Revised Statutes, **amend** 40-2-113 as
19 follows:

20 **40-2-113. Collection of fees - limitation.** (1) On or before June
21 15 of each year, the department of revenue shall notify each public utility
22 subject to this ~~article~~ ARTICLE 2 of the amount of its fee for the ensuing
23 fiscal year beginning July 1, computed by multiplying its gross intrastate
24 utility operating revenues for the preceding calendar year, as set forth in
25 its return filed for that purpose, by the percentage determined in
26 accordance with section 40-2-112; but EXCEPT THAT the department of
27 revenue shall not require a public utility that is a telephone corporation to

1 pay a fee in excess of ~~one-fifth~~ TWO-FIFTHS of one percent of its gross
2 intrastate utility operating revenues for the preceding calendar year and
3 shall not require any other public utility to pay a fee in excess of
4 ~~one-quarter~~ FORTY-FIVE ONE-HUNDREDTHS of one percent of its gross
5 intrastate utility operating revenues for the preceding calendar year.

6 (2) Each public utility shall pay the fee assessed against it to the
7 department of revenue in equal quarterly installments on or before July
8 15, October 15, January 15, and April 15 in each fiscal year. If a public
9 utility does not make a payment by one of the quarterly deadlines, the
10 department of revenue shall charge the public utility a penalty of ten
11 percent of the installment due, together with interest at the rate of one
12 percent per month on the amount of the unpaid installment until the full
13 amount of the installment, penalty, and interest has been paid. Upon
14 failure, refusal, or neglect of any public utility to pay the fee, or any
15 penalty or interest, the attorney general shall bring suit in the name of the
16 state to collect the amount due.

17 (3) THE COMMISSION SHALL ALLOW A PUBLIC UTILITY THAT IS NOT
18 A TELEPHONE CORPORATION FULL RECOVERY OF FEES ASSESSED AND
19 REMITTED TO THE DEPARTMENT OF REVENUE PURSUANT TO THIS SECTION.
20 THE RECOVERY MECHANISM MUST INCLUDE THE ABILITY OF THE UTILITY,
21 AT ITS OPTION, TO USE A DEFERRED ACCOUNT TO TRACK CHANGES IN FEES
22 BETWEEN RATE PROCEEDINGS.

23 **SECTION 5.** In Colorado Revised Statutes, 40-2-124, **amend**
24 (1)(d) as follows:

25 **40-2-124. Renewable energy standards - qualifying retail and**
26 **wholesale utilities - definitions - net metering - legislative declaration**
27 **- rules.** (1) Each provider of retail electric service in the state of

1 Colorado, other than municipally owned utilities that serve forty thousand
2 customers or fewer, is a qualifying retail utility. Each qualifying retail
3 utility, with the exception of cooperative electric associations that have
4 voted to exempt themselves from commission jurisdiction pursuant to
5 section 40-9.5-104 and municipally owned utilities, is subject to the rules
6 established under this article 2 by the commission. No additional
7 regulatory authority is provided to the commission other than that
8 specifically contained in this section. In accordance with article 4 of title
9 24, the commission shall revise or clarify existing rules to establish the
10 following:

11 (d) (I) (A) SUBJECT TO RULES PROMULGATED PURSUANT TO
12 SUBSECTION (1)(d)(II) OF THIS SECTION, a system of tradable renewable
13 energy credits that A QUALIFYING RETAIL UTILITY may ~~be used by a~~
14 ~~qualifying retail utility~~ USE to comply with this standard. The commission
15 shall also analyze the effectiveness of utilizing any regional system of
16 renewable energy credits in existence at the time of its rule-making
17 process and determine whether the system is governed by rules that are
18 consistent with the rules established for this ~~article~~ ARTICLE 2.

19 (B) The commission shall not restrict the qualifying retail utility's
20 ownership OR PURCHASE of renewable energy ~~credits~~ if: The qualifying
21 retail utility complies with the electric resource standard of ~~paragraph (c)~~
22 ~~of this subsection (1)~~; SUBSECTION (1)(c) OF THIS SECTION AND THE
23 CONDITIONS OF ANY RATE RECOVERY MECHANISM ADOPTED PURSUANT TO
24 SUBSECTION (1)(f)(IV) OF THIS SECTION; THE QUALIFYING RETAIL UTILITY
25 uses definitions of eligible energy resources that are limited to those
26 identified in ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF
27 THIS SECTION, as clarified by the commission, and does not exceed the

1 retail rate impact established by ~~paragraph (g) of this subsection (1)~~
2 SUBSECTION (1)(g) OF THIS SECTION; AND THE COMMISSION FINDS THAT
3 THE RESOURCES ARE PRUDENTLY ACQUIRED AT A REASONABLE COST AND
4 RATE IMPACT.

5 (C) Once a qualifying retail utility either receives a permit
6 pursuant to article 7 or 8 of title 25 ~~C.R.S.~~, for a generation facility that
7 relies on or is affected by the definitions of eligible energy resources or
8 enters into a contract that relies on or is affected by the definitions of
9 eligible energy resources, ~~such~~ THE definitions apply to the contract or
10 facility notwithstanding any subsequent alteration of the definitions,
11 whether by statute or rule.

12 (D) For purposes of compliance with the renewable energy
13 standard, if a generation system uses a combination of fossil fuel and
14 eligible renewable energy resources to generate electricity, a qualified
15 retail utility that is not an investor-owned utility may count as eligible
16 renewable energy only the proportion of the total electric output of the
17 generation system that results from the use of eligible renewable energy
18 resources.

19 (II) THE SYSTEM OF TRADABLE RENEWABLE ENERGY CREDITS
20 MUST INCLUDE REQUIREMENTS FOR THE RETIREMENT OF RENEWABLE
21 ENERGY CREDITS TO ENSURE THAT COMPLIANCE WITH THE RENEWABLE
22 ENERGY STANDARD:

23 (A) IS EFFECTUATED IN A MANNER THAT BENEFITS COLORADO'S
24 CITIES, COUNTIES, AND BUSINESSES;

25 (B) ENABLES A UTILITY'S CUSTOMERS TO ACCOUNT FOR THE
26 ENVIRONMENTAL BENEFITS OF THE RENEWABLE ENERGY GENERATED TO
27 SERVE THOSE CUSTOMERS AND PURCHASED FOR THOSE CUSTOMERS; AND

1 (C) IS CONSISTENT WITH TIMELY ATTAINMENT OF THE STATE'S
2 CLEAN ENERGY AND CLIMATE GOALS.

3 == ==

4 **SECTION 6.** In Colorado Revised Statutes, **add** 40-2-137 as
5 follows:

6 **40-2-137. Investor-owned utility electric resource planning -**
7 **retirement of electric generation facility - commission to consider**
8 **securitization as means of financing.** (1) FOR EACH INVESTOR-OWNED
9 ELECTRIC UTILITY THAT SUBMITS FOR COMMISSION APPROVAL AN
10 ELECTRIC RESOURCE PLAN THAT INCLUDES A PORTFOLIO IN WHICH AN
11 EXISTING ELECTRIC GENERATING FACILITY IN THE STATE WOULD BE
12 RETIRED, THE COMMISSION SHALL REQUIRE THE INVESTOR-OWNED
13 ELECTRIC UTILITY TO PRESENT AS PART OF THE RESOURCE PLAN THE NET
14 PRESENT VALUE OF REVENUE REQUIREMENTS FOR THE PORTFOLIO BASED
15 ON:

16 (a) A PROJECTION IN WHICH THE INVESTOR-OWNED ELECTRIC
17 UTILITY ISSUES CO-EI BONDS, AS DEFINED IN SECTION 40-41-102 (5), TO
18 RECOVER, FINANCE, OR REFINANCE COSTS ARISING FROM THE RETIREMENT
19 OF THE ELECTRIC GENERATING FACILITY PURSUANT TO THE "COLORADO
20 ENERGY IMPACT BOND ACT", ARTICLE 41 OF THIS TITLE 40; AND

21 (b) A PROJECTION IN WHICH THE INVESTOR-OWNED ELECTRIC
22 UTILITY DOES NOT ISSUE CO-EI BONDS.

23 (2) THE COMMISSION SHALL CONSIDER THE TWO NET PRESENT
24 VALUE OF REVENUE REQUIREMENT OPTIONS PRESENTED BY THE
25 INVESTOR-OWNED ELECTRIC UTILITY IN ITS REVIEW OF THE
26 INVESTOR-OWNED ELECTRIC UTILITY'S ELECTRIC RESOURCE PLAN.

27 **SECTION 7.** In Colorado Revised Statutes, 40-3.2-106, **amend**

1 (3) introductory portion and (3)(a) as follows:

2 **40-3.2-106. Costs of pollution in utility planning - definitions**

3 - **rules.** (3) In approving a resource plan, EITHER WITH GENERIC
4 RESOURCES OR IN THE ANALYSIS OF BIDS IN A COMPETITIVE SOLICITATION,
5 the commission shall REQUIRE A COMPARISON OF THE PORTFOLIOS' NET
6 PRESENT VALUE OF REVENUE REQUIREMENTS INCLUSIVE OF THE SOCIAL
7 COST OF CARBON DIOXIDE. THE COMMISSION SHALL ALSO consider:

8 (a) The net present value OF REVENUE REQUIREMENTS of the cost
9 of carbon dioxide OR CARBON DIOXIDE EQUIVALENT emissions;

10

11 **SECTION 8.** In Colorado Revised Statutes, 40-6-109.5, **amend**
12 (2) as follows:

13 **40-6-109.5. Hearings on applications - time limits for**
14 **decisions.** (2) In the case of any application not accompanied by prefiled
15 testimony and exhibits, the commission shall issue its decision no later
16 than two hundred ~~ten~~ FIFTY days after the application is deemed complete
17 as prescribed by the commission's rules.

18 **SECTION 9.** In Colorado Revised Statutes, 40-41-103, **amend**
19 **(2)(a) and (2)(b); and add (2)(d) as follows:**

20 **40-41-103. Financing orders - application requirements.**

21 **(2) (a) An investor-owned or other regulated electric utility may file an**
22 **application for approval to issue CO-EI bonds in one or more series,**
23 **impose, charge, and collect CO-EI charges, and create CO-EI property**
24 **related to:**

25 **(I) The retirement of an electric generating facility in Colorado**
26 **that has previously been approved by the commission; OR**

27 **(II) OTHER PROGRAMS OR PROJECTS AS APPROVED BY THE**

1 COMMISSION, INCLUDING PROGRAMS OR PROJECTS TO MITIGATE THE
2 EFFECTS OF EXTREME WEATHER, WILDFIRES, CLIMATE CHANGE, OR OTHER
3 HAZARDS.

4 (b) An electric utility that is not regulated may file an application
5 for approval to issue CO-EI bonds in one or more series, impose, charge,
6 and collect CO-EI charges, and create CO-EI property related to:

7 (I) The retirement of an electric generating facility in Colorado;
8 OR

9 (II) OTHER PROGRAMS OR PROJECTS AS APPROVED BY THE
10 COMMISSION, INCLUDING PROGRAMS OR PROJECTS TO MITIGATE THE
11 EFFECTS OF EXTREME WEATHER, WILDFIRES, CLIMATE CHANGE, OR OTHER
12 HAZARDS.

13 (d) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
14 COMMISSION SHALL NOT APPROVE THE ISSUANCE OF, NOR SHALL AN
15 ELECTRIC UTILITY ISSUE, CO-EI BONDS TO FINANCE THE PAYMENT OF
16 DAMAGES FOR A WILDFIRE OR OTHER LIABILITY OF THE ELECTRIC UTILITY.

17 **SECTION 10. Applicability.** This act applies to conduct
18 occurring on or after the effective date of this act.

19 **SECTION 11. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, or safety.