

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0700.01 Jennifer Berman x3286

SENATE BILL 22-110

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

Pelton,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT THAT A WIND-POWERED ENERGY
102 GENERATION FACILITY BE EQUIPPED WITH AN AIRCRAFT
103 DETECTION LIGHTING SYSTEM.

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>.)

The bill requires that, on or before September 1, 2024, an owner or operator of a wind-powered energy generation facility (facility) that is required to obtain a land-use permit from a local government equip the facility with an aircraft detection lighting system (system). The bill defines a system as a sensor-based system that is designed to detect

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.

approaching aircraft and that meets federal aviation administration requirements. An owner or operator of a facility is solely responsible for the costs of installing, operating, or maintaining a system and may request from the governing body of the local government an extension of time up to one year to equip a facility with a system. A local government may revoke an existing land-use permit or, if an application for permit renewal is pending, refuse to renew a land-use permit if a facility owner or operator fails to comply with the bill. The board of county commissioners in the county in which a facility is located may adopt and enforce an ordinance or resolution to authorize the board to impose civil penalties against a facility owner or operator if the board determines that the owner or operator has failed to comply with the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 38-30.7-106 as
3 follows:

4 **38-30.7-106. Wind-powered energy generation facilities**
5 **inclusion of aircraft detection lighting systems - requirement -**
6 **enforcement - definitions.** (1) (a) FOR ANY EXISTING OR NEW
7 WIND-POWERED ENERGY GENERATION FACILITY THAT IS SUBJECT TO
8 LOCAL GOVERNMENT LAND-USE PERMITTING REQUIREMENTS PURSUANT
9 TO SECTION 29-20-108, THE OWNER OR OPERATOR OF THE FACILITY SHALL,
10 ON OR BEFORE SEPTEMBER 1, 2024, EQUIP THE WIND-POWERED ENERGY
11 GENERATION FACILITY WITH AN AIRCRAFT DETECTION LIGHTING SYSTEM.

12 (b) THE OWNER OR OPERATOR OF A WIND-POWERED ENERGY
13 GENERATION FACILITY IS SOLELY RESPONSIBLE FOR ANY COSTS
14 ASSOCIATED WITH THE INSTALLATION, OPERATION, OR MAINTENANCE OF
15 AN AIRCRAFT DETECTION LIGHTING SYSTEM PURSUANT TO THIS SECTION
16 AND SHALL NOT SEEK TO RECOVER THE COSTS FROM PURCHASERS OF THE
17 ELECTRICITY GENERATED BY THE WIND-POWERED ENERGY GENERATION
18 FACILITY OR FROM UTILITY RATEPAYERS.

19 (2) THE OWNER OR OPERATOR OF A WIND-POWERED ENERGY

1 GENERATION FACILITY MAY SEEK AN EXTENSION OF TIME FROM THE
2 GOVERNING BODY OF THE LOCAL GOVERNMENT TO COMPLY WITH
3 SUBSECTION (1)(a) OF THIS SECTION. FOR GOOD CAUSE SHOWN, THE
4 GOVERNING BODY OF THE LOCAL GOVERNMENT MAY GRANT AN
5 EXTENSION OF UP TO ONE YEAR.

6 (3) (a) A LOCAL GOVERNMENT MAY REVOKE A PERMIT ISSUED
7 PURSUANT TO SECTION 29-20-108 OR, IF AN APPLICATION TO RENEW A
8 PERMIT ISSUED PURSUANT TO SECTION 29-20-108 IS PENDING, REFUSE TO
9 RENEW THE PERMIT FOR ANY WIND-POWERED ENERGY GENERATION
10 FACILITY LOCATED WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT
11 FOR WHICH THE OWNER OR OPERATOR OF THE FACILITY FAILS TO COMPLY
12 WITH THIS SECTION.

13 (b) IF THE BOARD HAS EXERCISED ITS AUTHORITY TO ENACT AN
14 ORDINANCE OR RESOLUTION TO IMPOSE CIVIL PENALTIES PURSUANT TO
15 SECTION 30-11-130 AND DETERMINES THAT AN OWNER OR OPERATOR OF
16 A WIND-POWERED ENERGY GENERATION FACILITY HAS FAILED TO COMPLY
17 WITH THIS SECTION, THE BOARD MAY IMPOSE A CIVIL PENALTY ON THE
18 OWNER OR OPERATOR OF THE FACILITY IN AN AMOUNT DETERMINED BY
19 THE BOARD IN THE ORDINANCE OR RESOLUTION.

20 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
21 REQUIRES:

22 (a) "AIRCRAFT DETECTION LIGHTING SYSTEM" MEANS A
23 SENSOR-BASED SYSTEM DESIGNED TO DETECT APPROACHING AIRCRAFT
24 THAT MEETS THE REQUIREMENTS THAT THE FEDERAL AVIATION
25 ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF
26 TRANSPORTATION HAS SET FORTH IN CHAPTER 10 OF ITS 2020 ADVISORY
27 CIRCULAR AC 70/7460-1M, "OBSTRUCTING MARKING AND LIGHTING".

1 (b) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS IN
2 THE COUNTY IN WHICH A WIND-POWERED ENERGY GENERATION FACILITY
3 IS LOCATED OR WILL BE LOCATED.

4 (c) "LOCAL GOVERNMENT" MEANS A COUNTY OR A HOME RULE OR
5 STATUTORY CITY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND
6 COUNTY.

7 (d) "WIND-POWERED ENERGY GENERATION FACILITY" OR
8 "FACILITY" MEANS A FACILITY USED IN THE GENERATION OF ELECTRICITY
9 BY MEANS OF A TURBINE OR OTHER DEVICE THAT CAPTURES AND EMPLOYS
10 THE KINETIC ENERGY OF THE WIND.

11 **SECTION 2.** In Colorado Revised Statutes, **add** 30-11-130 as
12 follows:

13 **30-11-130. Equipping wind-powered energy generation**
14 **facilities with aircraft detection lighting systems - enforcement -**
15 **definitions.** (1) A BOARD MAY ADOPT AND ENFORCE AN ORDINANCE OR
16 RESOLUTION AUTHORIZING THE BOARD TO IMPOSE A CIVIL PENALTY ON
17 THE OWNER OR OPERATOR OF A WIND-POWERED ENERGY GENERATION
18 FACILITY IN AN AMOUNT DETERMINED BY THE BOARD IN THE ORDINANCE
19 OR RESOLUTION IF THE BOARD DETERMINES THAT THE OWNER OR
20 OPERATOR OF THE FACILITY HAS FAILED TO COMPLY WITH SECTION
21 38-30.7-106.

22 (2) ONE OR MORE CONTIGUOUS COUNTIES AND ANY MUNICIPALITY
23 WITHIN EACH COUNTY MAY ENTER INTO AN INTERGOVERNMENTAL
24 AGREEMENT TO EXTEND THE APPLICABILITY OF ANY ORDINANCE OR
25 RESOLUTION ADOPTED UNDER THIS SECTION TO AND THROUGHOUT A
26 PARTICIPATING COUNTY OR MUNICIPALITY.

27 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

1 REQUIRES:

2 (a) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS IN
3 THE COUNTY IN WHICH A WIND-POWERED ENERGY GENERATION FACILITY
4 IS LOCATED OR WILL BE LOCATED.

5 (b) "WIND-POWERED ENERGY GENERATION FACILITY" OR
6 "FACILITY" MEANS A FACILITY USED IN THE GENERATION OF ELECTRICITY
7 BY MEANS OF A TURBINE OR OTHER DEVICE THAT CAPTURES AND EMPLOYS
8 THE KINETIC ENERGY OF THE WIND.

9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2022 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.