

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0281.01 Bob Lackner x4350

HOUSE BILL 21-1284

HOUSE SPONSORSHIP

Valdez A. and Van Winkle,

SENATE SPONSORSHIP

Hansen and Priola,

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE LIMITATION ON THE**
102 **AGGREGATE AMOUNT OF FEES THAT MAY BE ASSESSED BY**
103 **GOVERNMENTAL BODIES FOR THE INSTALLATION OF ACTIVE**
104 **SOLAR ENERGY SYSTEMS, AND, IN CONNECTION THEREWITH,**
105 **EXTENDING THE REPEAL DATE OF THE LIMITATION.**

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>.)

Current law imposes a limitation on the permit, application review, or any other related or associated fees that may be assessed by counties,

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.

HOUSE
2nd Reading Unamended
May 7, 2021

municipalities, state agencies, and political subdivisions of the state for the installation of an active solar electric or solar thermal device or system. The bill modifies this language so that the limitation applies to the aggregate of all charges or other related or associated fees the state, a county, municipality, state agency, or any other political subdivision of the state (governmental bodies) shall impose or assess for the installation of an active solar energy system.

The bill sets a limit on the aggregate of all charges or other related or associated fees any governmental body may impose or assess to install an active solar energy system of \$500 for a residential permit and \$1,000 for a commercial permit. In the case of a nonresidential application, on an individual installation basis only, if the governmental body incurs actual costs for issuing the permit that are greater than \$1,000, the governmental body is entitled to recovery of its actual costs for issuing the permit by submitting in writing and disclosing to the applicant for the particular permit proof of the governmental body's actual costs.

In connection with existing statutory requirements affecting state agencies and political subdivisions, the bill clarifies that the duty to clearly and individually identify all fees and taxes assessed on an application on the invoice lies with the state or any agency, institution, authority, or political subdivision of the state.

Under existing law, one component of determining the lawful fee for issuing a permit or reviewing an application requires a comparison of the lesser of the actual costs of providing such services or \$500 for a residential application. The bill restricts a governmental body from increasing its fees or other charges by more than 5% on an annual basis until the \$500 limitation is achieved.

The bill also extends the repeal date of the existing fee limitation.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds, determines, and declares that:

4 (a) It is critical to our long-term energy independence,
5 sustainability, and stability that Colorado continue to foster an
6 environment where renewable energy technologies can be deployed;

7 (b) Greater adoption of renewable energy technology will help
8 Colorado reach its clean energy goals, outlined in the Polis
9 Administration's "Roadmap to 100% Renewable Energy by 2040 and

1 Bold Climate Action";

2 (c) The cost of permitting in connection with the installation of an
3 active solar energy system can create a barrier for Coloradans and
4 Colorado businesses to install and deploy distributed solar and energy
5 storage;

6 (d) Current law governing the fees that may be charged by
7 governmental bodies for the installation of active solar energy systems
8 already includes guardrails to reduce these barriers, but there have been
9 some instances in which these guardrails have been circumvented and
10 further clarification of applicable statutory provisions is needed; and

11 (e) Fees associated with permits are intended to cover the costs
12 incurred by local governments in evaluating and issuing those permits and
13 should not be used as additional sources of general fund revenue.

14 (2) (a) Accordingly, the general assembly further finds,
15 determines, and declares that statutory provisions governing the fees that
16 may be charged by governmental bodies for the installation of active solar
17 energy systems must be further strengthened to provide clarity and
18 transparency for homeowners and businesses when seeking to adopt these
19 technologies by reasserting that the aggregate costs of all permitting fees
20 associated with these applications shall not exceed \$500 for a residential
21 permit and \$1,000 for a commercial permit.

22 (b) The general assembly further recognizes the important
23 contribution energy storage provides to Colorado's energy independence,
24 sustainability, and resilience.

25 (c) Existing statutory provisions governing the fees that may be
26 charged by governmental bodies for the installation of active solar energy
27 systems must make it clear that energy storage is an integral piece of the

1 entire active solar energy system.

2 (d) The potential exists for the occasional project to be complex
3 and for the actual costs associated with permitting to exceed the
4 guardrails specified in the statute.

5 (e) Therefore, the general assembly further finds that flexibility
6 should be provided to the permitting entity in these isolated cases to be
7 able to demonstrate the actual costs associated with these individual
8 permits and to allow the permitting entity to levy fees on such permits to
9 cover these costs.

10 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-48.5-113
11 as follows:

12 **24-48.5-113. Limit on solar device fees - definitions - repeal.**

13 (1) ~~An agency, institution, authority, or political subdivision of the state~~
14 ~~shall:~~

15 (a) ~~Not charge permit, application review, or any other related or~~
16 ~~associated fees to install an active solar electric or solar thermal device or~~
17 ~~system that, in aggregate,~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
18 SECTION, THE AGGREGATE OF ALL CHARGES OR OTHER RELATED OR
19 ASSOCIATED FEES THE STATE OR ANY AGENCY, INSTITUTION, AUTHORITY,
20 OR POLITICAL SUBDIVISION OF THE STATE MAY IMPOSE OR ASSESS TO
21 INSTALL AN ACTIVE SOLAR ENERGY SYSTEM SHALL NOT exceed:

22 (I) The lesser of the actual costs in issuing the permit or reviewing
23 the application or five hundred dollars for a residential application or ~~two~~
24 ONE thousand dollars for a nonresidential application if the device or
25 system produces fewer than two megawatts of direct current electricity or
26 an equivalent-sized thermal energy system; or

27 (II) The actual costs in issuing the permit if the device or system

1 produces at least two megawatts of direct current electricity or an
2 equivalent-sized thermal energy system.

3 (b) ~~Clearly~~ THE STATE OR ANY AGENCY, INSTITUTION, AUTHORITY,
4 OR POLITICAL SUBDIVISION OF THE STATE SHALL CLEARLY and individually
5 identify all fees and taxes assessed on an application subject to this
6 subsection (1) on the invoice.

7 (c) THE STATE OR ANY AGENCY, INSTITUTION, AUTHORITY, OR
8 POLITICAL SUBDIVISION OF THE STATE MAY INCREASE ITS FEES OR OTHER
9 CHARGES AS AUTHORIZED BY SUBSECTION (1)(a) OF THIS SECTION BY NO
10 MORE THAN FIVE PERCENT ON AN ANNUAL BASIS UNTIL THE FIVE HUNDRED
11 DOLLAR LIMITATION SPECIFIED IN SAID SUBSECTION (1)(a) IS ACHIEVED.

12 (d) IN THE CASE OF A NONRESIDENTIAL APPLICATION, ON AN
13 INDIVIDUAL INSTALLATION BASIS ONLY, IF THE STATE OR ANY AGENCY,
14 INSTITUTION, AUTHORITY, OR POLITICAL SUBDIVISION OF THE STATE
15 INCURS ACTUAL COSTS FOR ISSUING THE PERMIT THAT ARE GREATER THAN
16 ONE THOUSAND DOLLARS, THE STATE OR SUCH OTHER AGENCY,
17 INSTITUTION, AUTHORITY, OR POLITICAL SUBDIVISION OF THE STATE IS
18 ENTITLED TO RECOVERY OF ITS ACTUAL COSTS FOR ISSUING THE PERMIT BY
19 SUBMITTING IN WRITING AND DISCLOSING TO THE APPLICANT FOR THE
20 PARTICULAR PERMIT PROOF OF SUCH ACTUAL COSTS.

21 (e) AS USED IN THIS SUBSECTION (1), "ACTIVE SOLAR ENERGY
22 SYSTEM" MEANS A SINGLE SYSTEM THAT CONTAINS ELECTRIC
23 GENERATION, A THERMAL DEVICE, OR IS AN ENERGY STORAGE SYSTEM AS
24 DEFINED IN SECTION 40-2-202 (2).

25 (2) This section is repealed, effective ~~July 1, 2025~~ DECEMBER 31,
26 2029.

27 **SECTION 3.** In Colorado Revised Statutes, 30-28-113, **amend**

1 (1)(b)(II) as follows:

2 **30-28-113. Regulation of size and use - districts - definitions -**

3 **repeal.** (1) (b) (II) (A) ~~A county shall not charge permit, plan review, or~~
4 ~~any other related or associated fees~~ EXCEPT AS OTHERWISE PROVIDED IN
5 THIS SECTION, THE AGGREGATE OF ALL CHARGES OR OTHER RELATED OR
6 ASSOCIATED FEES A COUNTY SHALL IMPOSE OR ASSESS to install an active
7 solar ~~electric or solar thermal device or~~ ENERGY system, ~~that, in~~
8 ~~aggregate~~, SHALL NOT exceed the lesser of the county's actual costs in
9 issuing the permit or five hundred dollars for a residential application or
10 one thousand dollars for a nonresidential application if the device or
11 system produces fewer than two megawatts of direct current electricity or
12 an equivalent-sized thermal energy system, or that exceed the county's
13 actual costs in issuing the permit if the device or system produces at least
14 two megawatts of direct current electricity or an equivalent-sized thermal
15 energy system. A COUNTY MAY INCREASE ITS FEES OR OTHER CHARGES AS
16 AUTHORIZED BY THIS SUBSECTION (1)(b)(II) BY NO MORE THAN FIVE
17 PERCENT ON AN ANNUAL BASIS UNTIL THE FIVE HUNDRED DOLLAR
18 LIMITATION SPECIFIED IN THIS SUBSECTION (1)(b)(II) IS ACHIEVED. The
19 county shall clearly and individually identify all fees and taxes assessed
20 on an application subject to this subsection (1)(b)(II) on the invoice. The
21 general assembly hereby finds that there is a statewide need for certainty
22 regarding the fees that can be assessed for permitting such devices or
23 systems, and therefore declares that this subsection (1)(b)(II) is a matter
24 of statewide concern. This subsection (1)(b)(II) is repealed, effective ~~July~~
25 ~~1, 2025~~ DECEMBER 31, 2029.

26 (B) IN THE CASE OF A NONRESIDENTIAL APPLICATION, ON AN
27 INDIVIDUAL INSTALLATION BASIS ONLY, IF THE COUNTY INCURS ACTUAL

1 COSTS FOR ISSUING THE PERMIT THAT ARE GREATER THAN ONE THOUSAND
2 DOLLARS, THE COUNTY IS ENTITLED TO RECOVERY OF ITS ACTUAL COSTS
3 FOR ISSUING THE PERMIT BY SUBMITTING IN WRITING AND DISCLOSING TO
4 THE APPLICANT FOR THE PARTICULAR PERMIT PROOF OF THE COUNTY'S
5 ACTUAL COSTS.

6 (C) AS USED IN THIS SUBSECTION (1)(b)(II), "ACTIVE SOLAR
7 ENERGY SYSTEM" MEANS A SINGLE SYSTEM THAT CONTAINS ELECTRIC
8 GENERATION, A THERMAL DEVICE, OR IS AN ENERGY STORAGE SYSTEM AS
9 DEFINED IN SECTION 40-2-202 (2).

10 **SECTION 4.** In Colorado Revised Statutes, 31-15-402, **amend**
11 (4)(b) as follows:

12 **31-15-602. Energy efficient building codes - legislative**
13 **declaration - definitions - repeal.** (4) (b) (I) (A) ~~A municipality shall~~
14 ~~not charge permit, plan review, or any other related or associated fees~~
15 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE AGGREGATE OF
16 ALL CHARGES OR OTHER RELATED OR ASSOCIATED FEES A MUNICIPALITY
17 SHALL IMPOSE OR ASSESS to install an active solar electric or solar thermal
18 device or system ~~that, in aggregate,~~ SHALL NOT exceed the lesser of the
19 municipality's actual costs in issuing the permit or five hundred dollars
20 for a residential application or one thousand dollars for a nonresidential
21 application if the device or system produces fewer than two megawatts of
22 direct current electricity or an equivalent-sized thermal energy system, or
23 that exceed the municipality's actual costs in issuing the permit if the
24 device or system produces at least two megawatts of direct current
25 electricity or an equivalent-sized thermal energy system. A MUNICIPALITY
26 MAY INCREASE ITS FEES OR OTHER CHARGES AS AUTHORIZED BY THIS
27 SUBSECTION (4)(b)(I) BY NO MORE THAN FIVE PERCENT ON AN ANNUAL

1 BASIS UNTIL THE FIVE HUNDRED DOLLAR LIMITATION SPECIFIED IN THIS
2 SUBSECTION (4)(b)(I) IS ACHIEVED. The municipality shall clearly and
3 individually identify all fees and taxes assessed on an application subject
4 to this subsection (4)(b)(I) on the invoice. The general assembly hereby
5 finds that there is a statewide need for certainty regarding the fees that
6 can be assessed for permitting such devices or systems, and therefore
7 declares that this subsection (4)(b) is a matter of statewide concern.

8 (B) IN THE CASE OF A NONRESIDENTIAL APPLICATION, ON AN
9 INDIVIDUAL INSTALLATION BASIS ONLY, IF THE MUNICIPALITY INCURS
10 ACTUAL COSTS FOR ISSUING THE PERMIT THAT ARE GREATER THAN ONE
11 THOUSAND DOLLARS, THE MUNICIPALITY IS ENTITLED TO RECOVERY OF ITS
12 ACTUAL COSTS FOR ISSUING THE PERMIT BY SUBMITTING IN WRITING AND
13 DISCLOSING TO THE APPLICANT FOR THE PARTICULAR PERMIT PROOF OF
14 THE MUNICIPALITY'S ACTUAL COSTS.

15 (C) AS USED IN THIS SUBSECTION (4)(b)(I), "ACTIVE SOLAR
16 ENERGY SYSTEM" MEANS A SINGLE SYSTEM THAT CONTAINS ELECTRIC
17 GENERATION, A THERMAL DEVICE, OR IS AN ENERGY STORAGE SYSTEM AS
18 DEFINED IN SECTION 40-2-202 (2).

19 (II) This subsection (4)(b) is repealed, effective ~~July 1, 2025~~
20 DECEMBER 31, 2029.

21 **SECTION 5. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly; except
24 that, if a referendum petition is filed pursuant to section 1 (3) of article V
25 of the state constitution against this act or an item, section, or part of this
26 act within such period, then the act, item, section, or part will not take
27 effect unless approved by the people at the general election to be held in

- 1 November 2022 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.