

**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. 21-0784.02 Duane Gall x 4335

SENATE BILL 21-272

SENATE SPONSORSHIP

Hansen and Fenberg,

HOUSE SPONSORSHIP

(None),

Senate Committees

Transportation & Energy
Finance
Appropriations

House Committees

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
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 THE MEDIAN HOUSEHOLD INCOME IS
8 LESS THAN OR EQUAL TO TWO HUNDRED PERCENT OF THE FEDERAL
9 POVERTY LINE.

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

12 **40-2-113. Collection of fees - limitation.** (1) On or before June
13 15 of each year, the department of revenue shall notify each public utility
14 subject to this ~~article~~ ARTICLE 2 of the amount of its fee for the ensuing
15 fiscal year beginning July 1, computed by multiplying its gross intrastate
16 utility operating revenues for the preceding calendar year, as set forth in
17 its return filed for that purpose, by the percentage determined in
18 accordance with section 40-2-112; but EXCEPT THAT the department of
19 revenue shall not require a public utility that is a telephone corporation to
20 pay a fee in excess of one-fifth of one percent of its gross intrastate utility
21 operating revenues for the preceding calendar year and shall not require
22 any other public utility to pay a fee in excess of ~~one-quarter~~ FORTY-FIVE
23 ONE-HUNDREDTHS of one percent of its gross intrastate utility operating
24 revenues for the preceding calendar year.

25 (2) Each public utility shall pay the fee assessed against it to the
26 department of revenue in equal quarterly installments on or before July
27 15, October 15, January 15, and April 15 in each fiscal year. If a public

1 utility does not make a payment by one of the quarterly deadlines, the
2 department of revenue shall charge the public utility a penalty of ten
3 percent of the installment due, together with interest at the rate of one
4 percent per month on the amount of the unpaid installment until the full
5 amount of the installment, penalty, and interest has been paid. Upon
6 failure, refusal, or neglect of any public utility to pay the fee, or any
7 penalty or interest, the attorney general shall bring suit in the name of the
8 state to collect the amount due.

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

11 **40-2-124. Renewable energy standards - qualifying retail and**
12 **wholesale utilities - definitions - net metering - legislative declaration**
13 **- rules.** (1) Each provider of retail electric service in the state of
14 Colorado, other than municipally owned utilities that serve forty thousand
15 customers or fewer, is a qualifying retail utility. Each qualifying retail
16 utility, with the exception of cooperative electric associations that have
17 voted to exempt themselves from commission jurisdiction pursuant to
18 section 40-9.5-104 and municipally owned utilities, is subject to the rules
19 established under this article 2 by the commission. No additional
20 regulatory authority is provided to the commission other than that
21 specifically contained in this section. In accordance with article 4 of title
22 24, the commission shall revise or clarify existing rules to establish the
23 following:

24 (d) (I) (A) SUBJECT TO RULES PROMULGATED PURSUANT TO
25 SUBSECTION (1)(d)(II) OF THIS SECTION, a system of tradable renewable
26 energy credits that A QUALIFYING RETAIL UTILITY may ~~be used by a~~
27 ~~qualifying retail utility~~ USE to comply with this standard. The commission

1 shall also analyze the effectiveness of utilizing any regional system of
2 renewable energy credits in existence at the time of its rule-making
3 process and determine whether the system is governed by rules that are
4 consistent with the rules established for this ~~article~~ ARTICLE 2.

5 (B) The commission shall not restrict the qualifying retail utility's
6 ownership OR PURCHASE of renewable energy ~~credits~~ if: The qualifying
7 retail utility complies with the electric resource standard of ~~paragraph (c)~~
8 ~~of this subsection (1)~~; SUBSECTION (1)(c) OF THIS SECTION AND THE
9 CONDITIONS OF ANY RATE RECOVERY MECHANISM ADOPTED PURSUANT TO
10 SUBSECTION (1)(f)(IV) OF THIS SECTION; THE QUALIFYING RETAIL UTILITY
11 uses definitions of eligible energy resources that are limited to those
12 identified in ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF
13 THIS SECTION, as clarified by the commission, and does not exceed the
14 retail rate impact established by ~~paragraph (g) of this subsection (1)~~
15 SUBSECTION (1)(g) OF THIS SECTION; AND THE COMMISSION FINDS THAT
16 THE RESOURCES ARE PRUDENTLY ACQUIRED AT A REASONABLE COST AND
17 RATE IMPACT.

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

25 (D) For purposes of compliance with the renewable energy
26 standard, if a generation system uses a combination of fossil fuel and
27 eligible renewable energy resources to generate electricity, a qualified

1 retail utility that is not an investor-owned utility may count as eligible
2 renewable energy only the proportion of the total electric output of the
3 generation system that results from the use of eligible renewable energy
4 resources.

5 (II) THE SYSTEM OF TRADABLE RENEWABLE ENERGY CREDITS
6 MUST INCLUDE REQUIREMENTS FOR THE RETIREMENT OF RENEWABLE
7 ENERGY CREDITS TO ENSURE THAT COMPLIANCE WITH THE RENEWABLE
8 ENERGY STANDARD:

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

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

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

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

19 **40-2-137. Investor-owned utility electric resource planning -**
20 **retirement of electric generation facility - commission to consider**
21 **securitization as means of financing.** (1) FOR EACH INVESTOR-OWNED
22 ELECTRIC UTILITY THAT SUBMITS FOR COMMISSION APPROVAL AN
23 ELECTRIC RESOURCE PLAN THAT INCLUDES A PORTFOLIO IN WHICH AN
24 EXISTING ELECTRIC GENERATING FACILITY IN THE STATE WOULD BE
25 RETIRED, THE COMMISSION SHALL REQUIRE THE INVESTOR-OWNED
26 ELECTRIC UTILITY TO PRESENT AS PART OF THE RESOURCE PLAN THE NET
27 PRESENT VALUE OF REVENUE REQUIREMENTS FOR THE PORTFOLIO BASED

1 ON:

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

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

9 (2) THE COMMISSION SHALL CONSIDER THE TWO NET PRESENT
10 VALUE OF REVENUE REQUIREMENT OPTIONS PRESENTED BY THE
11 INVESTOR-OWNED ELECTRIC UTILITY IN ITS REVIEW OF THE
12 INVESTOR-OWNED ELECTRIC UTILITY'S ELECTRIC RESOURCE PLAN.

13 **SECTION 7.** In Colorado Revised Statutes, 40-3.2-106, **amend**
14 (3) introductory portion and (3)(a) as follows:

15 **40-3.2-106. Costs of pollution in utility planning - definitions**
16 **- rules.** (3) In approving a resource plan, EITHER WITH GENERIC
17 RESOURCES OR IN THE ANALYSIS OF BIDS IN A COMPETITIVE SOLICITATION,
18 the commission shall REQUIRE A COMPARISON OF THE PORTFOLIOS' NET
19 PRESENT VALUE OF REVENUE REQUIREMENTS INCLUSIVE OF THE SOCIAL
20 COST OF CARBON DIOXIDE. THE COMMISSION SHALL ALSO consider:

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

23 **SECTION 8.** In Colorado Revised Statutes, **amend** 40-6-106 as
24 follows:

25 **40-6-106. Power to inspect books and accounts.** (1) The
26 commission, each commissioner, and any person employed by the
27 commission ~~shall have the right to~~ MAY inspect the records and

1 documents of any public utility. ~~and~~ THIS RIGHT OF INSPECTION INCLUDES
2 THE RIGHT TO OBTAIN FROM THE PUBLIC UTILITY, UPON REQUEST:

3 (a) A LICENSE TO UTILIZE ANY ECONOMIC, STATISTICAL, OR
4 ENGINEERING SOFTWARE USED BY THE UTILITY TO EVALUATE AND
5 DETERMINE RATES OR FOR SYSTEM PLANNING, WITH RELEVANT INPUT AND
6 ASSUMPTIONS DATA PROVIDED BY THE UTILITY TO REPLICATE AND MODIFY
7 THE UTILITY'S ANALYSIS UTILIZING THE SOFTWARE; AND

8 (b) THE PAID ASSISTANCE OF AN INDEPENDENT CONTRACTOR
9 SKILLED IN THE USE OF THE SOFTWARE DESCRIBED IN SUBSECTION (1)(a)
10 OF THIS SECTION, AS APPROPRIATE, TO ENABLE ANALYSIS OF ANY UTILITY
11 APPLICATION FOR AN ADVICE LETTER, CERTIFICATE OF PUBLIC
12 CONVENIENCE OR NECESSITY, RESOURCE PLAN, INFRASTRUCTURE
13 SECURITY OR METERING PLAN, DEMAND-SIDE MANAGEMENT PLAN,
14 BENEFICIAL ELECTRIFICATION PLAN, OR DISTRIBUTION SYSTEM PLAN. THE
15 COSTS OF THIS ASSISTANCE ARE A RECOVERABLE COST OF BUSINESS FOR
16 THE UTILITY BUT SHALL NOT BE INCLUDED IN THE UTILITY'S RATE BASE.

17 (2) The commission, each commissioner, or any employee
18 authorized to administer oaths ~~has the power to~~ MAY examine under oath
19 any officer, agent, or employee of ~~such~~ A public utility in relation to the
20 business and affairs of ~~said~~ THE public utility.

21 (3) Any person other than a commissioner demanding ~~such~~ AN
22 inspection OR EXAMINATION PURSUANT TO THIS SECTION shall produce
23 under the hand and seal of the commission ~~his~~ THE PERSON'S authority to
24 make ~~such~~ AN inspection and SHALL MAKE AND FILE WITH THE
25 COMMISSION a written record of the testimony or statement ~~so~~ given under
26 oath. ~~shall be made and filed with the commission.~~

27 **SECTION 9.** In Colorado Revised Statutes, 40-6-109.5, **amend**

1 (2) as follows:

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

7 **SECTION 10. In Colorado Revised Statutes, 40-41-103, amend**
8 **(2)(a) and (2)(b); and add (2)(d) as follows:**

9 **40-41-103. Financing orders - application requirements.**
10 (2) (a) An investor-owned or other regulated electric utility may file an
11 application for approval to issue CO-EI bonds in one or more series,
12 impose, charge, and collect CO-EI charges, and create CO-EI property
13 related to:

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

16 (II) OTHER PROGRAMS OR PROJECTS AS APPROVED BY THE
17 COMMISSION, INCLUDING PROGRAMS OR PROJECTS TO MITIGATE THE
18 EFFECTS OF EXTREME WEATHER, WILDFIRES, CLIMATE CHANGE, OR OTHER
19 HAZARDS.

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

23 (I) The retirement of an electric generating facility in Colorado;
24 OR

25 (II) OTHER PROGRAMS OR PROJECTS AS APPROVED BY THE
26 COMMISSION, INCLUDING PROGRAMS OR PROJECTS TO MITIGATE THE
27 EFFECTS OF EXTREME WEATHER, WILDFIRES, CLIMATE CHANGE, OR OTHER

1 HAZARDS.

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

6 **SECTION 11. Applicability.** This act applies to conduct
7 occurring on or after the effective date of this act.

8 **SECTION 12. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety.