

CHAPTER 214

GOVERNMENT - LOCAL

SENATE BILL 24-212

BY SENATOR(S) Hansen and Fenberg, Priola, Buckner, Cutter, Fields, Jaquez Lewis, Michaelson Jenet, Winter F.; also REPRESENTATIVE(S) Brown and McCormick, Amabile, Bacon, Bird, Boesenecker, Daugherty, deGruy Kennedy, Duran, Froelich, Hamrick, Jodeh, Joseph, Kipp, Lindsay, McLachlan, Ortiz, Rutinel, Snyder, Titone, Valdez, Vigil, Weissman, Willford, McCluskie.

AN ACT

CONCERNING MEASURES TO FACILITATE THE CONSTRUCTION OF RENEWABLE ENERGY PROJECTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** part 4 to article 20 of title 29 as follows:

PART 4
RENEWABLE ENERGY PROJECTS

29-20-401. Short title. THE SHORT TITLE OF THIS PART 4 IS THE "RENEWABLE ENERGY PROJECTS ACT".

29-20-402. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS THAT:

(a) NEW RENEWABLE ENERGY PROJECTS AND DEVELOPMENT OF A SKILLED RENEWABLE ENERGY WORKFORCE ARE NEEDED IN ORDER TO MAKE PROGRESS ON THE STATE'S GREENHOUSE GAS EMISSION REDUCTION GOALS WHILE ALSO PROTECTING PUBLIC HEALTH, SAFETY, WELFARE, AND THE ENVIRONMENT, INCLUDING WILDLIFE RESOURCES;

(b) THE PROTECTION OF HEALTHY, INTACT ECOSYSTEMS RESULTS IN RESILIENT LANDS AND WATERS THAT CAN BE UTILIZED AS NATURE-BASED SOLUTIONS TO MITIGATE SOME IMPACTS OF CLIMATE CHANGE;

(c) COLORADO WILL LIKELY NEED TO TRIPLE WIND ENERGY CAPACITY AND

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

QUINTUPLE SOLAR ENERGY CAPACITY BY THE YEAR 2040 IN ORDER TO MEET THE STATE'S GREENHOUSE GAS EMISSION REDUCTION GOALS DESCRIBED IN SECTION 25-7-102;

(d) THE DEVELOPMENT OF RENEWABLE ENERGY RESOURCES AND TRANSMISSION WILL GENERATE COST SAVINGS FOR ELECTRICITY CONSUMERS, PROVIDE ECONOMIC OPPORTUNITY AND WORKFORCE DEVELOPMENT, PROVIDE MORE STABLE ENERGY PRICES BY REDUCING DEPENDENCE ON COMMODITIES WITH VARIABLE PRICES, REDUCE HARMFUL AIR POLLUTION, IMPROVE PUBLIC HEALTH, INCREASE ENERGY SECURITY, AND BRING ECONOMIC BENEFITS TO LANDOWNERS AND LOCAL COMMUNITIES; AND

(e) THERE MAY BE OPPORTUNITIES TO STREAMLINE AND EXPEDITE PERMITTING OF RENEWABLE ENERGY PROJECTS IN STRATEGIC AREAS.

29-20-403. Definitions. AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BRUNOT AGREEMENT" MEANS THE AGREEMENT OF SEPTEMBER 13, 1873, RATIFIED BY ACT OF APRIL 29, 1874, CH. 136, 18 STAT. 36 (1874).

(2) "BRUNOT AREA" MEANS THE LAND RELINQUISHED AND CONVEYED BY THE CONFEDERATED BANDS OF THE UTE NATION TO THE UNITED STATES IN THE BRUNOT AGREEMENT AND UPON WHICH THE UNITED STATES AGREED TO PERMIT THE UTE INDIANS TO HUNT "SO LONG AS THE GAME LASTS AND THE INDIANS ARE AT PEACE WITH THE WHITE PEOPLE".

(3) "COLORADO ENERGY OFFICE" OR "OFFICE" MEANS THE COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101.

(4) "COMMERCIAL ENERGY STORAGE FACILITY" MEANS COMMERCIALY AVAILABLE TECHNOLOGY THAT IS CAPABLE OF RETAINING ENERGY, STORING THE ENERGY FOR A PERIOD OF TIME, AND DELIVERING THE ENERGY AFTER STORAGE BY CHEMICAL MEANS.

(5) "COMMERCIAL ENERGY TRANSMISSION FACILITY" MEANS ALL STRUCTURES, EQUIPMENT, AND REAL PROPERTY NECESSARY TO TRANSFER ELECTRICITY AT SYSTEM BULK SUPPLY VOLTAGE OF ONE HUNDRED KILOVOLTS OR MORE.

(6) "COMMERCIAL SOLAR ENERGY FACILITY" MEANS ANY DEVICE OR ASSEMBLY OF DEVICES THAT:

(a) IS GROUND INSTALLED;

(b) HAS AT LEAST FIVE MEGAWATTS ALTERNATING CURRENT OF TOTAL NAMEPLATE GENERATING CAPACITY; AND

(c) USES SOLAR ENERGY TO GENERATE ELECTRICITY FOR THE PRIMARY PURPOSE OF WHOLESALE OR RETAIL SALE AND NOT PRIMARILY FOR CONSUMPTION ON THE PROPERTY ON WHICH THE DEVICE OR DEVICES RESIDE.

(7) "COMMERCIAL WIND ENERGY FACILITY" MEANS A WIND ENERGY CONVERSION FACILITY WITH A TOTAL NAMEPLATE GENERATING CAPACITY OF ONE-HALF MEGAWATT OR GREATER.

(8) "DIVISION OF PARKS AND WILDLIFE" OR "DIVISION" MEANS THE DIVISION OF PARKS AND WILDLIFE CREATED IN SECTION 33-9-104.

(9) "ENERGY AND CARBON MANAGEMENT COMMISSION" MEANS THE ENERGY AND CARBON MANAGEMENT COMMISSION CREATED IN SECTION 34-60-104.3.

(10) "FACILITY" MEANS:

- (a) A COMMERCIAL WIND ENERGY FACILITY;
- (b) A COMMERCIAL SOLAR ENERGY FACILITY; OR
- (c) A COMMERCIAL ENERGY STORAGE FACILITY.

(11) "FACILITY OWNER" MEANS:

(a) A PERSON WITH A DIRECT OWNERSHIP INTEREST IN A FACILITY, REGARDLESS OF WHETHER THE PERSON IS INVOLVED IN ACQUIRING RIGHTS AND PERMITS FOR THE FACILITY OR OTHERWISE PLANNING FOR THE CONSTRUCTION AND OPERATION OF THE FACILITY; OR

(b) DURING THE TIME A FACILITY IS BEING DEVELOPED, A PERSON THAT IS ACTING AS A DEVELOPER OF THE FACILITY BY ACQUIRING NECESSARY RIGHTS, PERMITS, AND APPROVALS OR BY PLANNING FOR THE CONSTRUCTION AND OPERATION OF THE FACILITY, REGARDLESS OF WHETHER THE PERSON WILL OWN OR OPERATE THE FACILITY.

(12) "HIGH-PRIORITY HABITAT" HAS THE MEANING SET FORTH IN SECTION 34-60-132.

(13) "LABOR ORGANIZATION" MEANS A BONA FIDE LABOR ORGANIZATION WITHIN THE MEANING OF 29 U.S.C. SEC. 152 OF THE FEDERAL "NATIONAL LABOR RELATIONS ACT", PUB.L. 74-198, THAT REPRESENTS OR SEEKS TO REPRESENT WORKERS ENGAGED IN THE CONSTRUCTION, OPERATIONS, AND MAINTENANCE OF COVERED RENEWABLE ENERGY PROJECTS OR WORKING IN THE SUPPLY CHAIN FOR SUCH PROJECTS.

(14) "LOCAL GOVERNMENT" MEANS A MUNICIPAL OR COUNTY GOVERNMENT OF A COMMUNITY IN WHICH A RENEWABLE ENERGY PROJECT IS PROPOSED TO BE LOCATED.

(15) "RENEWABLE ENERGY PROJECT" OR "PROJECT" MEANS A PROJECT TO ESTABLISH A FACILITY.

(16) "TRIBAL GOVERNMENT" MEANS THE TRIBAL GOVERNMENT OF THE UTE MOUNTAIN UTE TRIBE OR THE SOUTHERN UTE INDIAN TRIBE.

29-20-404. Technical support for renewable energy projects - duties of energy and carbon management commission - duties of division of parks and wildlife - duties of Colorado energy office - code repository - report - repeal.

(1) (a) AT THE REQUEST OF A LOCAL GOVERNMENT OR A TRIBAL GOVERNMENT, THE DIRECTOR OF THE ENERGY AND CARBON MANAGEMENT COMMISSION SHALL PROVIDE TECHNICAL SUPPORT TO THE LOCAL GOVERNMENT OR TRIBAL GOVERNMENT CONCERNING:

(I) THE DEVELOPMENT OF LOCAL CODES GOVERNING RENEWABLE ENERGY PROJECTS; OR

(II) THE REVIEW OF RENEWABLE ENERGY PROJECTS FOR WHICH A LOCAL GOVERNMENT OR A TRIBAL GOVERNMENT RECEIVES AN APPLICATION FOR LAND USE APPROVAL AFTER JUNE 30, 2024.

(b) WHEN PROVIDING TECHNICAL SUPPORT AS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, THE DIRECTOR OF THE ENERGY AND CARBON MANAGEMENT COMMISSION MAY COLLABORATE WITH OTHER STATE AGENCIES.

(c) IN ITS ANNUAL PRESENTATION TO THE LEGISLATIVE COMMITTEES OF REFERENCE PURSUANT TO SECTION 2-7-203, THE DEPARTMENT OF NATURAL RESOURCES SHALL INCLUDE INFORMATION INDICATING HOW MANY LOCAL AND TRIBAL GOVERNMENTS REQUESTED SUPPORT FROM THE ENERGY AND CARBON MANAGEMENT COMMISSION, AS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, DURING THE PRECEDING YEAR.

(2) (a) AT THE REQUEST OF A FACILITY OWNER, LOCAL GOVERNMENT, OR TRIBAL GOVERNMENT, THE DIVISION OF PARKS AND WILDLIFE SHALL PROVIDE THE FACILITY OWNER, LOCAL GOVERNMENT, OR TRIBAL GOVERNMENT A SET OF BEST MANAGEMENT PRACTICES TO AVOID, MINIMIZE, AND MITIGATE WILDLIFE IMPACTS OF RENEWABLE ENERGY PROJECTS.

(b) THE BEST MANAGEMENT PRACTICES AVAILABLE AT THE TIME OF APPLICATION WITH A LOCAL GOVERNMENT OR TRIBAL GOVERNMENT FOR LAND USE APPROVAL OF A RENEWABLE ENERGY PROJECT MAY BE INCORPORATED INTO PROJECT PLANS AT THE DISCRETION OF THE FACILITY OWNER.

(c) THE BEST MANAGEMENT PRACTICES MAY BE CONSIDERED AS CONDITIONS OF APPROVAL BY A LOCAL GOVERNMENT OR TRIBAL GOVERNMENT WITH LAND USE AUTHORITY OR REGULATORY AUTHORITY OVER A PROJECT FOR A RENEWABLE ENERGY PROJECT FOR WHICH THE LOCAL GOVERNMENT OR TRIBAL GOVERNMENT RECEIVES AN APPLICATION FOR LAND USE APPROVAL AFTER JUNE 30, 2024.

(d) THE DIVISION OF PARKS AND WILDLIFE SHALL IDENTIFY HIGH-PRIORITY HABITATS FOR RENEWABLE ENERGY PROJECTS BASED ON THE BEST AVAILABLE SCIENCE AND SHALL UPDATE THE LIST OF HIGH-PRIORITY HABITATS AT LEAST ANNUALLY AND MAKE THE LIST PUBLICLY AVAILABLE. A FACILITY OWNER, LOCAL GOVERNMENT, OR TRIBAL GOVERNMENT MAY CONSIDER THE HIGH-PRIORITY HABITATS IN PLANNING, SITING, PERMITTING, AND DEVELOPING RENEWABLE ENERGY PROJECTS.

(3) ON OR BEFORE JUNE 30, 2025, THE COLORADO ENERGY OFFICE, IN COOPERATION WITH THE DEPARTMENT OF LOCAL AFFAIRS AND THE DEPARTMENT OF NATURAL RESOURCES, SHALL DEVELOP A REPOSITORY OF CODES AND ORDINANCES THAT SUPPORT RENEWABLE ENERGY PROJECTS AND COMMERCIAL ENERGY TRANSMISSION FACILITIES FOR THE PURPOSE OF PROVIDING CONCEPTUAL FRAMEWORKS THAT LOCAL GOVERNMENTS AND TRIBAL GOVERNMENTS MAY CONSIDER AND ADAPT TO SUIT LOCAL CIRCUMSTANCES AND ADDRESS LOCAL ENERGY RESOURCES.

(4) (a) ON OR BEFORE SEPTEMBER 30, 2025, THE COLORADO ENERGY OFFICE SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY. THE OFFICE SHALL COLLABORATE WITH OTHER STATE AGENCIES, INCLUDING THE DEPARTMENT OF NATURAL RESOURCES, IN DEVELOPING THE REPORT. THE REPORT MUST:

(I) EVALUATE AND ASSESS LOCAL GOVERNMENT PROCESSES FOR THE SITING OF COMMERCIALLY VIABLE RENEWABLE ENERGY PROJECTS AND COMMERCIAL ENERGY TRANSMISSION FACILITIES; AND

(II) EVALUATE THE IMPACT OF RENEWABLE ENERGY PROJECTS AND COMMERCIAL ENERGY TRANSMISSION FACILITIES ON WILDLIFE RESOURCES; THE USE OF WILDLIFE MITIGATION, DECOMMISSIONING, AND COMMUNITY BENEFIT AGREEMENTS; AND THE RANGE OF FEES IMPOSED BY LOCAL GOVERNMENTS.

(b) IN PREPARING THE REPORT, THE OFFICE SHALL PROVIDE OPPORTUNITIES FOR MUNICIPAL AND COUNTY GOVERNMENTS; RENEWABLE ENERGY PROJECT DEVELOPERS; CONSERVATION ORGANIZATIONS; LOCAL STAKEHOLDERS, INCLUDING PROPERTY OWNERS; TRIBAL GOVERNMENTS; ELECTRIC UTILITIES; AND LABOR ORGANIZATIONS TO PROVIDE INPUT AND SHALL ALLOW OPPORTUNITY FOR PUBLIC COMMENT BEFORE THE FINAL REPORT IS COMPLETED.

(c) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2026.

29-20-405. Consultation with tribal government required - Brunot agreement of 1874. FOR RENEWABLE ENERGY PROJECTS FOR WHICH A LOCAL GOVERNMENT RECEIVES AN APPLICATION FOR LAND USE APPROVAL AFTER JUNE 30, 2024, A LOCAL GOVERNMENT SHALL NOT GRANT A DEVELOPMENT PERMIT FOR THE CONSTRUCTION OF A FACILITY IN ANY AREA THAT IS INCLUDED WITHIN THE BRUNOT AREA UNLESS THE LOCAL GOVERNMENT FIRST CONSULTS WITH THE TRIBAL GOVERNMENTS OF THE UTE MOUNTAIN UTE TRIBE AND THE SOUTHERN UTE INDIAN TRIBE CONCERNING THE POTENTIAL IMPACTS TO HUNTING, FISHING, AND GATHERING RIGHTS RELATED TO THE CONSTRUCTION OF THE FACILITY.

SECTION 2. Appropriation. (1) For the 2024-25 state fiscal year, \$307,991 is appropriated to the department of natural resources. This appropriation is from the wildlife cash fund created in section 33-1-112 (1)(a), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$304,297 for the division of parks and wildlife for wildlife operations, which amount is based on an assumption that the division will require an additional 2.5 FTE; and

(b) \$3,694 for the executive director's office for vehicle lease payments.

(2) For the 2024-25 state fiscal year, \$95,490 is appropriated to the department of natural resources for use by the energy and carbon management commission. This appropriation is from the energy and carbon management cash fund created in section 34-60-122 (5)(a), C.R.S., and is based on an assumption that the commission will require an additional 0.8 FTE. To implement this act, the commission may use this appropriation for program costs.

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: May 21, 2024