Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0607.03 Jery Payne HOUSE BILL 00-1237

STATE OF COLORADO

BY REPRESENTATIVES Young, Hoppe

A BILL FOR AN ACT

CONCERNING THE PURCHASE BY STATE GOVERNMENT OF AGRICULTURALLY-BASED ALTERNATIVES TO NONRENEWABLE PRODUCTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Declares that it is the policy of the state to stimulate the early evolution of markets for alternative agricultural products. Requires the department of personnel to purchase agriculturally-based alternatives to nonrenewable products unless the cost exceeds the cost of other compatible products by at least 10%. Requires a comprehensive recommendation about the costs and benefits of using agriculturally-based alternatives to nonrenewable products. Permits the department of personnel to purchase agriculturally-based alternatives to nonrenewable products if it is determined that the costs and benefits favor purchasing such products, unless the cost exceeds the cost of nonrenewable resource-based products by more than 50%. Grants an exception to the preference if such product does not meet minimum performance standards set by the department of personnel or if exercising the preference would be inconsistent with federal law or would cost the state a federal grant.

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

SECTION 1. Title 24, Colorado Revised Statutes, is amended

BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 112.5

Commodity Purchase Preferences

24-112.5-101. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT CURRENT TECHNOLOGY HAS THE POTENTIAL TO MAKE RENEWABLE FARM AND FORESTRY RESOURCES MAJOR SOURCES OF AFFORDABLE ALTERNATIVES TO NONRENEWABLE PRODUCTS. TECHNICAL ADVANCES IN THESE AREAS CAN CREATE AN EXPANDING ARRAY OF NEW ECONOMIC OPPORTUNITIES FOR FARMERS, FORESTERS, RANCHERS, AND BUSINESSES IN RURAL COLORADO. AGRICULTURALLY-BASED ALTERNATIVE PRODUCTS MAY ALSO REDUCE COLORADO'S DEPENDENCE ON FOREIGN OIL, IMPROVE AIR AND WATER QUALITY, AND DECREASE EROSION. THEREFORE, THE POLICY OF THIS STATE IS TO HELP STIMULATE THE EARLY EVOLUTION OF MARKETS FOR AGRICULTURALLY-BASED ALTERNATIVES TO NONRENEWABLE PRODUCTS BY CREATING A PREFERENCE FOR SUCH ALTERNATIVE PRODUCTS WHEN IT IS ECONOMICALLY REASONABLE.

24-112.5-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGRICULTURALLY-BASED", IN REFERENCE TO A PRODUCT, MEANS THAT AT LEAST TWENTY PERCENT OF THE RAW MATERIAL OF THE PRODUCT CONSISTS OF FLORA OR A DERIVATIVE OF FLORA. FLORA DOES NOT INCLUDE PETROLEUM OR COAL.

(2) "ALTERNATIVE PRODUCT" MEANS A COLORADO PRODUCT THAT IS LISTED IN THE DEPARTMENT OF AGRICULTURE'S LIST OF AGRICULTURALLY-BASED ALTERNATIVES TO NONRENEWABLE PRODUCTS.

(3) "COST" MEANS THE INCREASE IN EXPENDITURES INCURRED BY THE STATE IN CONNECTION WITH THE USE OF A PRODUCT.

24-112.5-103. State and federal law. IF IT IS DETERMINED BY THE DEPARTMENT RESPONSIBLE FOR PURCHASING PRODUCTS COVERED BY THIS ARTICLE THAT COMPLIANCE WITH THIS ARTICLE MAY CAUSE DENIAL OF FEDERAL MONEYS THAT WOULD OTHERWISE BE AVAILABLE, OR THAT COMPLIANCE WITH THIS ARTICLE WOULD OTHERWISE BE INCONSISTENT WITH REQUIREMENTS OF FEDERAL LAW, THIS ARTICLE SHALL BE SUSPENDED, BUT ONLY TO THE EXTENT NECESSARY TO PREVENT DENIAL OF THE MONEYS OR TO ELIMINATE THE INCONSISTENCY WITH FEDERAL REQUIREMENTS.

24-112.5-104. Preference for agriculturally-based alternatives to nonrenewable products. (1) THE DEPARTMENT OF AGRICULTURE SHALL PROVIDE A LIST TO THE DEPARTMENT OF PERSONNEL OF VIABLE AGRICULTURALLY-BASED ALTERNATIVE PRODUCTS PRODUCED AND AVAILABLE IN COLORADO.

(2) THE DEPARTMENT OF PERSONNEL SHALL PURCHASE AGRICULTURALLY-BASED ALTERNATIVES TO NONRENEWABLE RESOURCE-BASED PRODUCTS, INCLUDING PETROLEUM-BASED PRODUCTS UNLESS THE COST OF SUCH PRODUCTS EXCEEDS THE COST OF OTHER COMPATIBLE TYPES OF PRODUCTS BY MORE THAN TEN PERCENT.

(3) (a) (I) THE OFFICE OF ENERGY MANAGEMENT AND CONSERVATION IN THE GOVERNOR'S OFFICE, AFTER CONSULTATION WITH THE DEPARTMENTS OF AGRICULTURE, PERSONNEL, PUBLIC HEALTH AND ENVIRONMENT, AND HIGHER EDUCATION AND OTHER DEPARTMENTS OR AGENCIES, SHALL MAKE RECOMMENDATIONS ABOUT THE COSTS AND

BENEFITS OF USING AGRICULTURALLY-BASED ALTERNATIVES TO PETROLEUM-BASED PRODUCTS.

(II) IF THE OFFICE OF ENERGY MANAGEMENT AND CONSERVATION IN THE GOVERNOR'S OFFICE DETERMINES THAT THE BALANCE OF COSTS AND BENEFITS FAVORS THE USE OF AGRICULTURALLY-BASED ALTERNATIVE PRODUCTS RATHER THAN PETROLEUM-BASED PRODUCTS, THEN THE DEPARTMENT OF PERSONNEL MAY PURCHASE AGRICULTURALLY-BASED ALTERNATIVES TO PETROLEUM-BASED PRODUCTS UNLESS THE COST OF SUCH ALTERNATIVES EXCEEDS THE COST OF PETROLEUM-BASED PRODUCTS BY MORE THAN FIFTY PERCENT.

(b) (I) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AFTER CONSULTATION WITH THE DEPARTMENTS OF AGRICULTURE, PERSONNEL, AND HIGHER EDUCATION AND OTHER APPROPRIATE DEPARTMENTS OR AGENCIES, SHALL MAKE RECOMMENDATIONS ABOUT THE COSTS AND BENEFITS OF USING AGRICULTURALLY-BASED ALTERNATIVES TO NONRENEWABLE RESOURCE-BASED PRODUCTS.

(II) IF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT DETERMINES THAT THE BALANCE OF COSTS AND BENEFITS FAVORS THE USE OF AGRICULTURALLY-BASED ALTERNATIVE PRODUCTS RATHER THAN NONRENEWABLE RESOURCE-BASED PRODUCTS, THEN THE DEPARTMENT OF PERSONNEL MAY PURCHASE AGRICULTURALLY-BASED ALTERNATIVES TO PETROLEUM-BASED PRODUCTS UNLESS THE COST OF SUCH ALTERNATIVES EXCEEDS THE COST OF PETROLEUM-BASED PRODUCTS BY MORE THAN FIFTY PERCENT.

(4) THE COST-BENEFIT ANALYSES CONTEMPLATED IN THIS SECTION SHALL INCLUDE CONSIDERATION OF THE FOLLOWING VARIABLES, AT A

MINIMUM:

(a) THE USEFUL LIFE OF THE PRODUCT;

(b) THE COST OF RECYCLING THE PRODUCT;

(c) THE ENVIRONMENTAL IMPACT OF USING THE PRODUCT;

(d) THE VALUE TO THE STATE OF POTENTIALLY INCREASED ECONOMIC ACTIVITY WITHIN THE STATE OF COLORADO; AND

(e) THE COST ASSOCIATED WITH THE POSSIBILITY THAT USE OF THE PRODUCT WILL VOID A MANUFACTURER'S WARRANTY.

(5) AGRICULTURALLY-BASED ALTERNATIVE PRODUCTS SHALL NOT BE GIVEN THE PURCHASING PREFERENCE UNDER THIS SECTION UNLESS SUCH PRODUCTS MEET OR EXCEED ANY UNIFORMLY APPLIED PERFORMANCE STANDARD SET BY THE DEPARTMENT OF PERSONNEL.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.