

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REDRAFT
2.12.09
Double underlining
denotes changes from
prior draft

DRAFT

LLS NO. 09-0827.01 Thomas Morris

COMMITTEE BILL

SENATE SPONSORSHIP

Mitchell,

HOUSE SPONSORSHIP

(None),

SHORT TITLE: "Enforce Limited Local Fees Solar Panels"

DEADLINES: File by: 2/13/2009

A BILL FOR AN ACT

101 CONCERNING ENFORCEMENT OF THE EXISTING LIMIT ON LOCAL
102 GOVERNMENT BUILDING FEES APPLICABLE TO THE
103 INSTALLATION OF ACTIVE SOLAR ENERGY DEVICES.

Bill Summary

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

Joint Select Committee on Job Creation and Economic Growth.
Defines "permit fees" paid for approval by a municipality or county of the installation of an active solar energy device as the total compensation received from any source whatsoever or in any way connected with the approval of such installation. Creates a private right of action for violation of the fee limit. Directs the courts to award attorney fees to the

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

prevailing party in any such action and, if the plaintiff is the prevailing party, 3 times the amount of the unauthorized fees.

Applies the act to fees charged on or after May 20, 2008, the effective date of Senate Bill 08-117.

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

2 **SECTION 1.** 30-28-113 (1) (b) (II), Colorado Revised Statutes,
3 is amended to read:

4 **30-28-113. Regulation of size and use - districts - repeal.**

5 (1) (b) (II) (A) A county may not charge permit fees to install an active
6 solar energy device or system that, in aggregate, are in excess of the lesser
7 of the county's actual costs in issuing the permit or five hundred dollars
8 for a residential application or one thousand dollars for a nonresidential
9 application. The general assembly hereby finds that there is a statewide
10 need for certainty regarding the fees that can be assessed for permitting
11 an active solar energy device or system, and therefore declares that this
12 subparagraph (II) is a matter of statewide concern.

13 (B) FOR PURPOSES OF THIS SUBPARAGRAPH (II), "PERMIT FEES"
14 MEANS THE TOTAL COMPENSATION RECEIVED BY A COUNTY FOR APPROVAL
15 OF THE INSTALLATION OF AN ACTIVE SOLAR ENERGY DEVICE OR SYSTEM
16 FROM ANY SOURCE WHATSOEVER AS A CONDITION OF, OR IN ANY WAY
17 CONNECTED WITH, THE APPROVAL OF SUCH INSTALLATION.

18 (C) IF A COUNTY VIOLATES THE LIMITATION ESTABLISHED BY THIS
19 SUBPARAGRAPH (II), AN AGGRIEVED PARTY SHALL HAVE A PRIVATE RIGHT
20 OF ACTION AGAINST THE COUNTY. THE COURT SHALL AWARD ATTORNEY
21 FEES TO THE PREVAILING PARTY IN ANY SUCH ACTION; EXCEPT THAT THE
22 COURT SHALL AWARD SUCH FEES TO A COUNTY ONLY IF THE PLAINTIFF'S
23 CLAIMS ARE SUBSTANTIALLY UNJUSTIFIED. IF THE PLAINTIFF IS THE

1 PREVAILING PARTY IN THE ACTION, THE COURT SHALL AWARD THREE
2 TIMES THE AMOUNT OF THE UNAUTHORIZED FEES.

3 (D) This subparagraph (II) is repealed, effective July 1, 2011.

4 **SECTION 2.** 31-15-602 (4) (b) (I), Colorado Revised Statutes,
5 is amended to read:

6 **31-15-602. Energy efficient building codes - legislative**
7 **declaration - definitions - repeal.** (4) (b) (I) (A) A municipality may
8 not charge permit fees to install an active solar energy device or system
9 that, in aggregate, are in excess of the lesser of the municipality's actual
10 costs in issuing the permit or five hundred dollars for a residential
11 application or one thousand dollars for a nonresidential application. The
12 general assembly hereby finds that there is a statewide need for certainty
13 regarding the fees that can be assessed for permitting an active solar
14 energy device or system, and therefore declares that this paragraph (b) is
15 a matter of statewide concern.

16 (B) FOR PURPOSES OF THIS SUBPARAGRAPH (I), "PERMIT FEES"
17 MEANS THE TOTAL COMPENSATION RECEIVED BY A MUNICIPALITY FOR
18 APPROVAL OF THE INSTALLATION OF AN ACTIVE SOLAR ENERGY DEVICE OR
19 SYSTEM FROM ANY SOURCE WHATSOEVER AS A CONDITION OF, OR IN ANY
20 WAY CONNECTED WITH, THE APPROVAL OF SUCH INSTALLATION.

21 (C) IF A MUNICIPALITY VIOLATES THE LIMITATION ESTABLISHED BY
22 THIS SUBPARAGRAPH (I), AN AGGRIEVED PARTY SHALL HAVE A PRIVATE
23 RIGHT OF ACTION AGAINST THE MUNICIPALITY. THE COURT SHALL AWARD
24 ATTORNEY FEES TO THE PREVAILING PARTY IN ANY SUCH ACTION; EXCEPT
25 THAT THE COURT SHALL AWARD SUCH FEES TO A MUNICIPALITY ONLY IF
26 THE PLAINTIFF'S CLAIMS ARE SUBSTANTIALLY UNJUSTIFIED. IF THE
27 PLAINTIFF IS THE PREVAILING PARTY IN THE ACTION, THE COURT SHALL

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1 AWARD THREE TIMES THE AMOUNT OF THE UNAUTHORIZED FEES.

2 **SECTION 3. Applicability.** This act shall apply to fees charged
3 on or after May 20, 2008.

4 **SECTION 4. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.