

First Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 09-0357.01 Thomas Morris

HOUSE BILL 09-1098

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HOUSE SPONSORSHIP

**Baumgardner**, Gardner C., King S., Murray, Sonnenberg, Tipton, Waller

SENATE SPONSORSHIP

**Brophy and Kopp**,

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House Committees

Transportation & Energy  
Appropriations

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE STREAMLINING OF APPROVAL REQUIREMENTS FOR  
102 CLEAN COAL ELECTRIC GENERATION PROJECTS.

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Bill Summary

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

Creates the approval coordination council (council) in the public utilities commission by a **type 2** transfer. Directs the council to initiate approval coordination procedures upon submission of a request by the sponsor of a clean coal electric generation technology project. Requires the sponsor to file with the council and serve upon all governmental entities involved in approving the project a description of the project and a list of the governmental entities involved and to pay the costs associated

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

with the council's coordination. Directs the commission to streamline the procedural steps required for approval of a certificate of public convenience and necessity and for cost recovery of clean coal electric generation technology projects.

Directs the air quality control commission, water quality control commission, state board of health, and solid and hazardous waste commission in the department of public health and environment to streamline the procedural steps required for issuance of permits for clean coal electric generation technology projects.

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

2 **SECTION 1.** 40-2-123 (2), Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **40-2-123. New energy technologies - consideration by**  
5 **commission - incentives - demonstration projects - approval**  
6 **coordination council - cash fund created - definitions - legislative**  
7 **declaration.** (2) (n) (I) THERE IS HEREBY CREATED IN THE OFFICE OF THE  
8 COMMISSION THE APPROVAL COORDINATION COUNCIL, REFERRED TO IN  
9 THIS PARAGRAPH (n) AS THE COUNCIL. THE COUNCIL SHALL EXERCISE ITS  
10 POWERS AND PERFORM ITS DUTIES AND FUNCTIONS SPECIFIED IN THIS  
11 PARAGRAPH (n) UNDER THE COMMISSION AS IF THE COUNCIL WERE  
12 TRANSFERRED TO THE COMMISSION BY A **TYPE 2** TRANSFER AS SUCH  
13 TRANSFER IS DEFINED IN SECTION 24-1-105, C.R.S.

14 (II) SPONSORS OF ADVANCED COAL ELECTRIC GENERATION  
15 TECHNOLOGY PROJECTS, INCLUDING AN IGCC OR OTHER CLEAN COAL  
16 TECHNOLOGY PROJECT, THAT REQUIRE PERMITS OR APPROVALS FROM THE  
17 COMMISSION AND LOCAL, STATE, OR FEDERAL GOVERNMENTAL ENTITIES,  
18 INCLUDING, SPECIFICALLY, THE DEPARTMENT OF PUBLIC HEALTH AND  
19 ENVIRONMENT, OR THAT REQUIRE COMPLIANCE WITH A JURISDICTIONAL  
20 REQUIREMENT OF THE COMMISSION AND LOCAL, STATE, OR FEDERAL

1 GOVERNMENT, MAY ELECT TO UTILIZE THE COORDINATION PROCESS  
2 AUTHORIZED BY THIS PARAGRAPH (n). NO PROJECT SPONSOR SHALL BE  
3 COMPELLED TO UTILIZE THE PROCESS AUTHORIZED BY THIS PARAGRAPH  
4 (n).

5 (III) UPON RECEIPT OF A WRITTEN REQUEST FROM A PROJECT  
6 SPONSOR, THE COUNCIL SHALL INITIATE PROJECT COORDINATION  
7 PROCEDURES THAT RESULT IN A COMMITMENT BY THE SPONSOR TO PAY  
8 FOR THE SPECIFIED COSTS OF THE GOVERNMENTAL PARTICIPANTS. AFTER  
9 SUBMISSION OF ITS REQUEST BUT BEFORE BEGINNING PROJECT  
10 COORDINATION PROCEDURES, THE SPONSOR SHALL PAY TO THE COUNCIL  
11 A FILING FEE IN AN AMOUNT DETERMINED BY THE COUNCIL TO COVER ITS  
12 DIRECT AND INDIRECT COSTS IN PROVIDING PROJECT COORDINATION  
13 PROCEDURES. THE COUNCIL SHALL ESTABLISH AND PUBLISH HOURLY  
14 RATES FOR COORDINATION CHARGES PERFORMED BY THE COUNCIL IN  
15 CONNECTION WITH APPLICATIONS FILED UNDER THIS ARTICLE. WITHIN  
16 THIRTY DAYS AFTER THE FINAL APPROVAL OR DENIAL OF A PROJECT, THE  
17 COUNCIL SHALL BILL THE SPONSOR FOR THE COUNCIL'S DIRECT AND  
18 INDIRECT COSTS IN ACCORDANCE WITH THE HOURLY RATE STRUCTURE  
19 ESTABLISHED PURSUANT TO THIS PARAGRAPH (n). THE COUNCIL'S  
20 CHARGES SHALL BE BILLED AGAINST THE FILING FEE PAID PURSUANT TO  
21 THIS PARAGRAPH (n), BUT SUCH CHARGES SHALL NOT EXCEED THE  
22 AMOUNT OF THE FILING FEE. IF THE COUNCIL BILLS CHARGES IN AN  
23 AMOUNT LESS THAN THE FILING FEE, THE COUNCIL SHALL RETURN ANY  
24 UNUSED BALANCE OF THE FILING FEE TO THE SPONSOR AFTER THE FINAL  
25 DETERMINATION IN THE MATTER HAS BEEN MADE. THE COUNCIL SHALL  
26 TRANSMIT SUCH FEE TO THE STATE TREASURER, WHO SHALL DEPOSIT IT IN  
27 THE APPROVAL COORDINATION COUNCIL CASH FUND, WHICH FUND IS

1       HEREBY CREATED IN THE STATE TREASURY. ALL MONEYS CREDITED TO  
2       THE FUND AND UNEXPENDED AT THE END OF ANY GIVEN FISCAL YEAR  
3       SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL  
4       FUND. MONEYS IN THE FUND SHALL BE APPROPRIATED SOLELY TO THE  
5       COUNCIL TO PAY FOR ITS COSTS IN PROVIDING PROJECT COORDINATION  
6       PROCEDURES. PROJECT COORDINATION PROCEDURES SHALL REQUIRE THE  
7       SPONSOR TO PERFORM AT LEAST THE FOLLOWING ACTIVITIES:

8               (A) FILE WITH THE COUNCIL A PROJECT STATEMENT CONTAINING  
9       ACCURATE INFORMATION RELATING TO THE NATURE, LOCATION, SIZE, AND  
10       DURATION OF THE PROJECT;

11              (B) FILE WITH THE COUNCIL A LIST CONTAINING THE NAMES AND  
12       ADDRESSES OF ALL LOCAL, STATE, AND FEDERAL GOVERNMENTAL  
13       ENTITIES THAT THE SPONSOR REASONABLY EXPECTS TO BE INVOLVED IN A  
14       PROCESS REQUIRING PUBLIC INPUT WITH REGARD TO THE PROJECT; AND

15              (C) SERVE THE PROJECT STATEMENT UPON EACH LOCAL, STATE,  
16       AND FEDERAL GOVERNMENTAL ENTITY CONTAINED IN THE LIST FILED WITH  
17       THE COUNCIL.

18              (IV) UPON COMPLETION OF THE PROCEDURES REQUIRED PURSUANT  
19       TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (n), THE COUNCIL SHALL:

20              (A) ESTABLISH, TO THE EXTENT POSSIBLE, A LIST OF ALL  
21       APPLICABLE REQUIREMENTS IDENTIFIED BY THE SPONSOR THAT WILL BE  
22       THE SUBJECT OF THE AGREEMENT BETWEEN THE SPONSOR AND THE  
23       COUNCIL;

24              (B) ESTABLISH A TIMETABLE FOR COMPLETION OF THE PUBLIC  
25       INPUT, PERMIT COMPLIANCE, AND APPROVAL REQUIREMENTS IN  
26       COORDINATION WITH THE GOVERNMENTAL ENTITIES INVOLVED;

27              (C) ORGANIZE AND MANAGE MEETINGS INVOLVING THE SPONSOR

1 AND ALL INVOLVED GOVERNMENTAL ENTITIES; AND

2 (D) TAKE ANY OTHER ACTION THAT WILL FACILITATE THE TIMELY  
3 APPROVAL OR DENIAL OF PERMITS, APPROVALS, OR LICENSES REQUIRED OF  
4 THE SPONSOR FOR THE COMMENCEMENT OF THE PROJECT.

5 (V) FAILURE OF THE SPONSOR TO UTILIZE THE PROCESS  
6 ESTABLISHED IN THIS PARAGRAPH (n) SHALL NOT BE GROUNDS OR  
7 RATIONALE FOR THE DENIAL OR CONDITIONING OF ANY PERMIT, LICENSE,  
8 APPROVAL, OR OTHER ACTION REQUESTED BY THE SPONSOR FROM ANY  
9 GOVERNMENTAL ENTITY INVOLVED IN THE PERMITTING OR LICENSING  
10 PROCESS.

11 (VI) NOTHING IN THIS PARAGRAPH (n) SHALL CONFER ANY  
12 ADDITIONAL POWERS OR JURISDICTION UPON ANY PARTICIPATING  
13 GOVERNMENTAL ENTITY.

14 (VII) THE COMMISSION SHALL, TO THE EXTENT FEASIBLE,  
15 STREAMLINE THE PROCEDURAL STEPS REQUIRED FOR APPROVAL OF A  
16 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR COST  
17 RECOVERY FOR ADVANCED COAL ELECTRIC GENERATION TECHNOLOGY  
18 PROJECTS, INCLUDING AN IGCC OR OTHER CLEAN COAL TECHNOLOGY  
19 PROJECT.

20 **SECTION 2.** 25-6.5-102, Colorado Revised Statutes, is amended  
21 BY THE ADDITION OF A NEW SUBSECTION to read:

22 **25-6.5-102. Requirements for environmental rules -**  
23 **publication - approval coordination.** (8) EACH RELEVANT COMMISSION  
24 SHALL:

25 (a) COOPERATE WITH THE APPROVAL COORDINATION COUNCIL  
26 CREATED IN SECTION 40-2-123 (2) (n), C.R.S.; AND

27 (b) TO THE EXTENT FEASIBLE, STREAMLINE THE PROCEDURAL

1 STEPS REQUIRED FOR PERMIT ISSUANCE FOR AN ADVANCED COAL ELECTRIC  
2 GENERATION TECHNOLOGY PROJECT, INCLUDING AN IGCC OR OTHER  
3 CLEAN COAL TECHNOLOGY PROJECT, AS THOSE TERMS ARE USED IN  
4 SECTION 40-2-123, C.R.S.

5           **SECTION 3. Act subject to petition - effective date.** This act  
6 shall take effect at 12:01 a.m. on the day following the expiration of the  
7 ninety-day period after final adjournment of the general assembly that is  
8 allowed for submitting a referendum petition pursuant to article V,  
9 section 1 (3) of the state constitution, (August 4, 2009, if adjournment  
10 sine die is on May 6, 2009); except that, if a referendum petition is filed  
11 against this act or an item, section, or part of this act within such period,  
12 then the act, item, section, or part, if approved by the people, shall take  
13 effect on the date of the official declaration of the vote thereon by  
14 proclamation of the governor.