Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED
This Version Includes All Amendments Adopted on Second Reading in the Second House

LLS NO. 10-0770.01 Duane Gall

HOUSE BILL 10-1349

HOUSE SPONSORSHIP

Fischer and Pace,

SENATE SPONSORSHIP

Schwartz and Tapia,

House Committees
Transportation & Energy
Appropriations

Senate Committees
Local Government and Energy
Appropriations

SENATE
Amended 2nd Reading
May 10, 2010

HOUSE
3rd Reading Unamended
April 26, 2010

HOUSE
Amended 2nd Reading
April 23, 2010

A BILL FOR AN ACT

CONCERNING THE USE OF RENEWABLE ENERGY RESOURCES TO SUPPLY THE ENERGY NEEDS OF STATE GOVERNMENT, AND, IN CONNECTION THEREWITH, COMMISSIONING THE CREATION OF A STATEWIDE MAP OF AVAILABLE RENEWABLE ENERGY GENERATION AREAS ON STATE LANDS AND ESTABLISHING THE "RE-ENERGIZE COLORADO" PROGRAM IN THE DIVISION OF PARKS AND OUTDOOR RECREATION IN THE DEPARTMENT OF NATURAL RESOURCES, AND MAKING AN APPROPRIATION THEREFOR.

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

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.

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://www.leg.state.co.us/billsummaries.)

Section 1 of the bill directs the governor's energy office or its designee to create an inventory and map of lands under the control of the department of natural resources or other state agencies that have potential to support the development of renewable resource generation projects to meet the electrical energy needs of the division of parks and outdoor recreation. **Sections 2 and 3** authorize the executive director of the department of natural resources and the state land board, respectively, to include such lands among those suitable for acquisition or leasing for the purpose of allowing renewable energy generation projects to proceed.

Section 1 also creates the re-energize Colorado program, under which the division of parks and outdoor recreation is encouraged to undertake renewable energy generation projects on state land to supply or offset all of its electrical energy needs by the year 2020. Finally, Section 1 authorizes a qualifying retail utility to waive some of the existing statutory limits placed on net metering and customer-sited generation projects for purposes of meeting this goal.

Section 4 directs the public utilities commission to give the fullest possible consideration to projects under the re-energize Colorado program, especially where such projects offer good prospects for job creation and local economic growth, when considering the issuance of certificates of public convenience and necessity to utilities.

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

SECTION 1. Part 1 of article 33 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

24-33-114. Renewable resource generation development areas - inventory of resources - fund - definitions - repeal. (1) THE GOVERNOR'S ENERGY OFFICE OR ITS DESIGNEE SHALL IDENTIFY RENEWABLE RESOURCE GENERATION DEVELOPMENT AREAS ON LAND OWNED, LEASED, OR OTHERWISE CONTROLLED BY THE DIVISION OF PARKS AND OUTDOOR RECREATION IN THE DEPARTMENT OF NATURAL RESOURCES, ALSO REFERRED TO IN THIS SECTION AS THE "DIVISION", THAT HAVE THE

POTENTIAL TO SUPPORT THE DEVELOPMENT OF RENEWABLE RESOURCE GENERATION PROJECTS.

(2) (a) AT A MINIMUM, THE OFFICE SHALL USE GEOGRAPHIC INFORMATION SYSTEMS TO DEVELOP A MAP OF AREAS OWNED, LEASED, OR OTHERWISE CONTROLLED BY THE DIVISION THAT OFFER THE POTENTIAL FOR DEVELOPMENT OF ELIGIBLE ENERGY RESOURCES, AS DEFINED IN SECTION 40-2-124, C.R.S.

(b) IN DEVELOPING THE MAP, THE OFFICE SHALL CONSIDER, WITHOUT LIMITATION:

(I) THE TRANSMISSION NEEDS OF THE RENEWABLE RESOURCE GENERATION DEVELOPMENT AREAS;

(II) THE POTENTIAL DEVELOPMENT OF ELIGIBLE ENERGY RESOURCES AS DEFINED IN SECTION 40-2-124 (1) (a), C.R.S.; AND

(III) MITIGATION OF THE EFFECTS, IF ANY, OF THE PLACEMENT OF RENEWABLE ENERGY GENERATION FACILITIES ON EXISTING VIEWSHEDS.

(3) **Report.** THE OFFICE SHALL ADOPT AND DELIVER THE MAP DEVELOPED UNDER SUBSECTION (2) OF THIS SECTION TO THE GOVERNOR AND THE GENERAL ASSEMBLY NO LATER THAN JUNE 30, 2011.

(4) **Funding.** (a) THE OFFICE MAY ACCEPT PUBLIC AND PRIVATE GIFTS, GRANTS, AND DONATIONS TO SUPPORT THE OFFICE IN PERFORMING ITS RESPONSIBILITIES SPECIFIED IN THIS SECTION. ANY SUCH GIFTS, GRANTS, AND DONATIONS SHALL BE HELD IN THE RENEWABLE RESOURCE GENERATION DEVELOPMENT AREAS FUND, ALSO REFERRED TO IN THIS SECTION AS THE "FUND", WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND ALSO CONSISTS OF MONEYS APPROPRIATED AND TRANSFERRED TO THE FUND. EARNINGS FROM INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. MONEYS IN THE FUND SHALL

BE ANNUALLY APPROPRIATED TO THE OFFICE FOR THE PURPOSE OF CARRYING OUT THIS SECTION. ANY UNEXPENDED OR UNENCUMBERED MONEYS REMAINING IN THE FUND AS OF JUNE 30, 2011, SHALL REVERT TO THE GENERAL FUND.

(b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE OFFICE NOT BE REQUIRED TO SOLICIT GIFTS, GRANTS, OR DONATIONS FROM ANY SOURCE FOR THE PURPOSES OF THIS SECTION AND THAT NO GENERAL FUND MONEYS BE USED TO PAY FOR ANY EXPENSES OF THE OFFICE UNDER THIS SECTION.

(c) IF, BY JULY 1, 2010, THE COMBINED TOTAL AMOUNT OF MONEYS IN THE FUND CREATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), TOGETHER WITH ANY FEDERAL MONEYS THAT MAY BE AVAILABLE FOR PURPOSES OF IMPLEMENTING THIS SECTION, HAVE NOT REACHED AN AMOUNT SUFFICIENT TO PAY THE EXPENSES OF IMPLEMENTING THIS SECTION, THE OFFICE SHALL NOT UNDERTAKE ANY DUTIES PURSUANT TO THIS SECTION AND SHALL RETURN TO EACH GRANTOR OR DONOR AN AMOUNT EQUAL TO SUCH GRANTOR'S OR DONOR'S CONTRIBUTION. THE INTEREST, IF ANY, EARNED FROM THE INVESTMENT OF MONEYS IN THE FUND SHALL BE TRANSFERRED TO THE GENERAL FUND.

(5) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "GOVERNOR'S ENERGY OFFICE" OR "OFFICE" MEANS THE GOVERNOR'S ENERGY OFFICE CREATED IN SECTION 24-38.5-101, OR ANY SUCCESSOR OFFICE CREATED WITHIN THE OFFICE OF THE GOVERNOR FOR THE PURPOSE OF PROMOTING RENEWABLE ENERGY.

(6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2011.

24-33-115. Re-energize Colorado program - powers and duties of executive director - repeal. (1) IN ADDITION TO ALL OTHER POWERS

AND DUTIES CONFERRED UPON THE EXECUTIVE DIRECTOR BY LAW, THE EXECUTIVE DIRECTOR IS HEREBY AUTHORIZED AND DIRECTED TO WORK WITH THE GOVERNOR'S ENERGY OFFICE, THE STATE BOARD OF LAND COMMISSIONERS, PUBLIC UTILITIES, AND OTHER STATE AND FEDERAL AGENCIES AS NECESSARY TO INITIATE THE RE-ENERGIZE COLORADO PROGRAM. THE PURPOSES OF THE PROGRAM ARE:

(a) TO MAXIMIZE THE ABILITY OF THE DIVISION OF PARKS AND OUTDOOR RECREATION, ALSO REFERRED TO IN THIS SECTION AS THE "DIVISION", TO ACHIEVE ENERGY SELF-SUFFICIENCY USING ELIGIBLE ENERGY RESOURCES, AS DEFINED IN SECTION 40-2-124, C.R.S., WITH THE GOAL OF GENERATING OR OFFSETTING ONE HUNDRED PERCENT OF THE DIVISION'S ELECTRICAL ENERGY CONSUMPTION USING ELIGIBLE ENERGY RESOURCES ON LAND OWNED, LEASED, OR CONTROLLED BY THE DIVISION BY THE YEAR 2020; AND

(b) TO DEMONSTRATE BEST PRACTICES IN THE EFFICIENT DEPLOYMENT OF ELIGIBLE ENERGY RESOURCES TO MEET THE ELECTRICAL ENERGY NEEDS OF THE DIVISION IN A MANNER CONSISTENT WITH ITS GOAL AND MISSION AND THE OUTDOOR EXPERIENCE OF VISITORS TO COLORADO'S PUBLIC LANDS.

(2) NOTWITHSTANDING SECTION 40-2-124 (1) (c) (II) (B), (1) (e) (II), OR (1) (e) (III), C.R.S., OR ANY RULE OR ORDER OF THE PUBLIC UTILITIES COMMISSION TO THE CONTRARY, FOR THE PURPOSE OF ENABLING THE DIVISION TO ACHIEVE A NET ZERO RELIANCE ON ELECTRICITY GENERATED FROM NONRENEWABLE SOURCES FOR ALL OF ITS PROPERTY, WHETHER CONTIGUOUS OR NONCONTIGUOUS, A QUALIFYING RETAIL UTILITY MAY, ON A CASE-BY-CASE OR PROJECT-BY-PROJECT BASIS:

(a) WAIVE ANY EXISTING LIMITS ON THE NET METERING OF

ELECTRICITY GENERATED ON CONTIGUOUS PROPERTY CONSTITUTING THE CUSTOMER'S SITE;

(b) WAIVE ANY EXISTING LIMITS ON GENERATING CAPACITY OR CUSTOMER SERVICE ENTRANCE CAPACITY IF THE CUSTOMER PROPOSES TO MAKE ANY NECESSARY UPGRADES TO ITS SERVICE ENTRANCE CAPACITY AT ITS OWN EXPENSE; AND

(c) HAVE THE RIGHT OF FIRST REFUSAL TO PURCHASE, AND THE RIGHT NOT TO PURCHASE, ELECTRICITY FROM CUSTOMER-SITED RENEWABLE ENERGY GENERATING EQUIPMENT THAT IS SIZED TO SUPPLY MORE THAN ONE HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY BY THE CUSTOMER AT THAT SITE. IF THE QUALIFYING RETAIL UTILITY EXERCISES ITS OPTION TO PURCHASE EXCESS GENERATION UNDER THIS PARAGRAPH (d), IT MAY CLAIM RENEWABLE ENERGY CREDITS BASED ON SUCH PURCHASES.

(3) TO ACHIEVE THE GOALS SET FORTH IN THIS SECTION, THE EXECUTIVE DIRECTOR MAY USE PERFORMANCE CONTRACTING, AVAILABLE CASH FUNDS, PUBLIC-PRIVATE PARTNERSHIPS WITH RELIABLE THIRD PARTIES, LOAN AND GRANT PROGRAMS FUNDED OR ADMINISTERED BY ANY STATE OR FEDERAL AGENCY, INCLUDING REVOLVING LOAN PROGRAMS, AND ANY AVAILABLE LOAN OR BONDING MECHANISMS ESTABLISHED BY COLORADO LAW.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO PERMIT ANY STATE AGENCY TO MAKE RETAIL SALES OF ELECTRIC ENERGY OR TO TRANSMIT OR DISTRIBUTE ELECTRIC ENERGY BETWEEN OR AMONG STATE AGENCIES OR PROPERTIES; OR

(b) TO LIMIT, EXPAND, ALTER, OR OTHERWISE AFFECT ANY RIGHT

CONFERRED BY ANY OTHER LAW UPON A PUBLIC UTILITY SUBJECT TO ARTICLE 3, 3.5, OR 9.5 OF TITLE 40, C.R.S., TO ASSESS FEES FOR THE USE OF ITS FACILITIES.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2020.

SECTION 2. 24-33-107 (2) (a), Colorado Revised Statutes, is amended to read:

24-33-107. Acquisition of state lands by department - interests in land. (2) (a) Whenever the executive director of the department of natural resources is informed that a specific piece of land held by the state board of land commissioners has a characteristic that is alleged to have a unique economic or environmental value for the public, INCLUDING LAND UNDER THE CONTROL OF THE DIVISION OF PARKS AND OUTDOOR RECREATION THAT HAS THE POTENTIAL TO SUPPORT RENEWABLE ENERGY GENERATION DEVELOPMENT AS CONTEMPLATED IN SECTION 24-33-114, and that such characteristic allegedly would be damaged or destroyed if the land passed to private ownership, the executive director may, with the written consent of either the president of the state board of land commissioners or the commissioner of agriculture, give written notification to ~~said~~ THE board that said land, other than agricultural or grazing rights, is subject to acquisition by the department of natural resources. The notification by the executive director shall identify said lands by their appropriate legal description and shall specify the characteristic of the land that is alleged to have unique economic or environmental value for the public. Not later than during the next regular session of the general assembly, ~~said~~ THE executive director shall request such authorization and appropriation as may be necessary to enable the department to acquire said land or an interest therein in accordance with

~~the provisions of~~ this section.

SECTION 3. 36-1-147.5 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

36-1-147.5. Leasing arrangements for renewable energy resources development - legislative declaration - definitions - repeal. (3) (c) (I) IF A MAP IS GENERATED PURSUANT TO SECTION 24-33-114 (2) (a), C.R.S., THE STATE BOARD OF LAND COMMISSIONERS MAY USE THAT MAP TO IDENTIFY STATE LANDS UNDER THE BOARD'S DIRECTION AND CONTROL THAT MAY BE SUITABLE AND APPROPRIATE FOR DEVELOPMENT OF ELIGIBLE ENERGY RESOURCES, AS DEFINED IN SECTION 40-2-124 (1) (a), C.R.S., FOR USE BY THE DIVISION OF PARKS AND OUTDOOR RECREATION IN THE DEPARTMENT OF NATURAL RESOURCES.

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 4. 40-2-123 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

40-2-123. New energy technologies - consideration by commission - incentives - demonstration projects - definitions - legislative declaration - repeal. (1) (c) THE COMMISSION SHALL GIVE THE FULLEST POSSIBLE CONSIDERATION TO PROPOSALS UNDER THE RE-ENERGIZE COLORADO PROGRAM, CREATED IN SECTION 24-33-115, C.R.S., WITH PARTICULAR ATTENTION TO THOSE PROJECTS OFFERING THE PROSPECT OF JOB CREATION AND LOCAL ECONOMIC GROWTH.

SECTION 5. Appropriation. The general assembly anticipates that, for the fiscal year beginning July 1, 2010, the department of governor-lieutenant governor-state planning and budgeting, governor's energy office, will receive the sum of fifty thousand dollars ($50,000) in federal funds for the implementation of this act. Said sum shall be from

federal State Energy Planning funds received through the American Recovery and Reinvestment Act of 2009. Although these funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds.

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