

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0394.01 Duane Gall

SENATE BILL 11-058

SENATE SPONSORSHIP

Renfroe, Harvey, Lambert, Lundberg

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans & Military Affairs
Agriculture and Natural Resources

House Committees

A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT THAT ELECTRIC UTILITIES EMPLOY
102 LEAST-COST PLANNING FOR NEW RESOURCE ACQUISITIONS.

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 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>.)

The bill repeals recent directives requiring the public utilities commission (PUC) to give special consideration to a number of factors and specific technologies when considering applications by electric utilities for approval of investments in generation facilities. The bill restates the priority of minimizing costs to ratepayers and directs the PUC

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.

to adopt rules reflecting the legal standards that prevailed under prior law.

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

2 **SECTION 1.** 40-2-123, Colorado Revised Statutes, is
3 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

4 **40-2-123. Commission consideration of new energy**
5 **technologies - least-cost planning.** (1) EXCEPT AS OTHERWISE
6 PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE COMMISSION SHALL
7 GIVE THE FULLEST POSSIBLE CONSIDERATION TO THE COST-EFFECTIVE
8 IMPLEMENTATION OF NEW CLEAN ENERGY AND ENERGY-EFFICIENT
9 TECHNOLOGIES IN ITS CONSIDERATION OF GENERATION ACQUISITIONS FOR
10 ELECTRIC UTILITIES, BEARING IN MIND THE BENEFICIAL CONTRIBUTIONS
11 SUCH TECHNOLOGIES MAKE TO COLORADO'S ENERGY SECURITY,
12 ECONOMIC PROSPERITY, ENVIRONMENTAL PROTECTION, AND INSULATION
13 FROM FUEL PRICE INCREASES. THE COMMISSION SHALL CONSIDER UTILITY
14 INVESTMENTS IN ENERGY EFFICIENCY, AND IN RESOURCE ACQUISITIONS
15 NECESSARY TO MEET THE RENEWABLE ENERGY PORTFOLIO STANDARDS
16 SET FORTH IN SECTION 40-2-124, TO BE AN ACCEPTABLE USE OF
17 RATEPAYER MONEYS SO LONG AS SUCH INVESTMENTS COMPLY WITH THE
18 COMMISSION'S LEAST-COST RESOURCE PLANNING RULES ADOPTED
19 PURSUANT TO SUBSECTION (2) OF THIS SECTION.

20 (2) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY,
21 FOR RESOURCE PLANNING PURPOSES, THE COMMISSION SHALL DEVELOP
22 AND IMPLEMENT LEAST-COST PLANNING RULES REQUIRING
23 JURISDICTIONAL UTILITIES TO USE A LEAST-COST PORTFOLIO UNDER A NET
24 PRESENT VALUE REVENUE REQUIREMENT OVER THE EXPECTED LIFE OF THE
25 GENERATION ASSETS, WITH THE ADDITIONAL REQUIREMENTS THAT:

1 (a) THE PLANNING RULES MUST BE NEUTRAL WITH REGARD TO
2 FUEL TYPE AND RESOURCE TECHNOLOGY;

3 (b) COSTS THAT ARE NOT IDENTIFIED AS THOSE THAT WILL BE
4 ACTUALLY INCURRED BY THE ELECTRIC UTILITY MAY NOT BE INCLUDED IN
5 THE REVENUE REQUIREMENT ANALYSES;

6 (c) FUEL SUPPLY COSTS MAY NOT BE MODIFIED BEYOND THE
7 KNOWN ACTUAL COSTS OR BEST ESTIMATED COSTS. BEST ESTIMATED
8 COSTS MAY NOT BE MODIFIED TO REFLECT ANY EXTERNAL FACTORS NOT
9 DEFINITELY REQUIRED BY FEDERAL OR STATE LAW.

10 (d) FOR RESOURCES OWNED BY THE ELECTRIC UTILITY, THE COSTS
11 FOR TRANSMISSION FACILITIES REQUIRED TO DELIVER ENERGY FROM THE
12 PROPOSED RESOURCE TO THE CONNECTION WITH THE TRANSMISSION
13 SYSTEM OF THE ELECTRIC UTILITY MUST BE INCLUDED IN THE REVENUE
14 REQUIREMENTS ANALYSES; AND

15 (e) FOR RESOURCES PURCHASED FROM OTHER SUPPLIERS, THE
16 COSTS INCURRED FOR DELIVERY TO THE CONNECTION OWNED BY THE
17 ELECTRIC UTILITY MUST BE BORNE BY THE SELLING PARTY AND INCLUDED
18 IN THE PRICE OF DELIVERED POWER AND ENERGY.

19 **SECTION 2. Repeal.** 24-38.5-102 (1) (n), Colorado Revised
20 Statutes, is repealed as follows:

21 **24-38.5-102. Governor's energy office - duties and powers.**

22 (1) The governor's energy office shall:

23 (n) ~~Provide public utilities with reasonable assistance, if~~
24 ~~requested, in seeking and obtaining support and sponsorship for an IGCC~~
25 ~~project as defined in section 40-2-123 (2) (b) (I), C.R.S., and manage and~~
26 ~~distribute to the utility some or all of any funds provided by the state or~~
27 ~~by the United States government to the state for purposes of study or~~

1 development of an IGCC project as specified in section ~~40-2-123 (2) (j)~~;
2 ~~C.R.S.~~;

3 **SECTION 3. Repeal.** 40-9.7-103 (5) (g), Colorado Revised
4 Statutes, is repealed as follows:

5 **40-9.7-103. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (5) "Clean energy" means any of the following fuels that are
8 themselves manufactured or synthesized and energy derived from any of
9 the following:

10 (g) ~~The IGCC project defined in section 40-2-123 (2) (b) (I).~~

11 **SECTION 4. Repeal.** 40-9.7-106 (1) (c) (I) (B), Colorado
12 Revised Statutes, is repealed as follows:

13 **40-9.7-106. Authority - duties and powers.** (1) The authority
14 shall:

15 (c) (I) Convene qualified task forces to develop proposed
16 recommendations for its consideration, amendment, and adoption and
17 thereafter itself adopt official recommendations for the general assembly
18 regarding the types of clean energy projects that the authority should
19 finance, refinance, or otherwise support. The authority shall convene the
20 task forces as soon as the authority determines that it has received
21 sufficient moneys from gifts, grants, donations, or project fees to
22 adequately fund the activities of the task forces. The task forces shall
23 develop and the authority shall adopt final recommendations as to:

24 (B) ~~Whether projects that involve integrated gasification~~
25 ~~combined cycle generation facilities or IGCC facilities, as defined in~~
26 ~~section 40-2-123 (2) (b) (II), other than the IGCC project described in~~
27 ~~section 40-2-123 (2) (b) (I) that is specifically defined as clean energy~~

1 ~~pursuant to section 40-9.7-103 (5) (g), or other clean coal technologies~~
2 ~~that have the potential for substantial sequestration of carbon emissions~~
3 ~~should be considered clean energy projects that the authority may finance,~~
4 ~~refinance, or otherwise support, and, if so, the nature and extent of any~~
5 ~~restrictions, including, but not limited to, specific carbon dioxide~~
6 ~~emissions sequestration requirements, that such projects should satisfy as~~
7 ~~a prerequisite to authority financing, refinancing, or other support; and~~

8 **SECTION 5. Act subject to petition - effective date.** This act
9 shall take effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part shall not take effect
15 unless approved by the people at the general election to be held in
16 November 2012 and shall take effect on the date of the official
17 declaration of the vote thereon by the governor.