

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0962.01 Duane Gall x4335

SENATE BILL 13-252

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House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO INCREASE COLORADO'S RENEWABLE**
102 **ENERGY STANDARD SO AS TO ENCOURAGE THE DEPLOYMENT OF**
103 **METHANE CAPTURE TECHNOLOGIES.**

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>.)

In the statute creating Colorado's renewable energy standard, the bill removes in-state preferences with respect to:

- ! Wholesale distributed generation;
- ! The 1.25 kilowatt-hour multiplier for each kilowatt-hour of

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.

electricity generated from eligible energy resources other than retail distributed generation;

- ! The 1.5 kilowatt-hour multiplier for community-based projects; and
- ! Policies the Colorado public utilities commission (PUC) must implement by rule to provide incentives to qualifying retail utilities to invest in eligible energy resources.

The bill also raises the percentage of retail electricity sales that must be achieved from eligible energy resources by cooperative electric associations that provide service to 100,000 meters or more from 10% to 25%, starting in 2020, and increases the allowable retail rate impact for cooperative electric associations from 1% to 2%.

The bill expands the definition of "eligible energy resources" that can be used to meet the standards to include coal mine methane and synthetic gas produced by pyrolysis of municipal solid waste, subject to a determination by the PUC that the production and use of these gases does not cause a net increase in greenhouse gas emissions.

The bill also implements a new eligible energy standard of 25% for generation and transmission cooperative electric associations that directly provide electricity at wholesale to cooperative electric associations in Colorado that are its members. The standard applies only to sales by these wholesale providers to their members in Colorado. The wholesale providers are required to make public reports of their annual progress toward meeting the standard by 2020. The PUC is granted no additional regulatory authority over these providers in the implementation of this standard.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-2-124, **amend** (1)
3 introductory portion, (1) (a), (1) (c) (II) (A), (1) (c) (III), (1) (c) (V)
4 introductory portion, (1) (c) (V) (D), (1) (c) (VI) introductory portion, (1)
5 (f) introductory portion, (1) (g) (I) (A), and (1) (g) (IV) (A); and **add** (1)
6 (c) (V.5) and (8) as follows:

7 **40-2-124. Renewable energy standards - qualifying retail and**
8 **wholesale utilities - definitions - net metering - legislative declaration.**

9 (1) Each provider of retail electric service in the state of Colorado, other
10 than municipally owned utilities that serve forty thousand customers or

1 fewer, ~~shall be considered~~ IS a qualifying retail utility. Each qualifying
2 retail utility, with the exception of cooperative electric associations that
3 have voted to exempt themselves from commission jurisdiction pursuant
4 to section 40-9.5-104 and municipally owned utilities, ~~shall be~~ IS subject
5 to the rules established under this article by the commission. No
6 additional regulatory authority ~~of~~ IS PROVIDED TO the commission other
7 than that specifically contained in this section. ~~is provided or implied.~~ In
8 accordance with article 4 of title 24, C.R.S., the commission shall revise
9 or clarify existing rules to establish the following:

10 (a) Definitions of eligible energy resources that can be used to
11 meet the standards. "Eligible energy resources" means recycled energy
12 and renewable energy resources. IN ADDITION, RESOURCES USING COAL
13 MINE METHANE AND SYNTHETIC GAS PRODUCED BY PYROLYSIS OF
14 MUNICIPAL SOLID WASTE ARE ELIGIBLE ENERGY RESOURCES IF THE
15 COMMISSION DETERMINES THAT THE ELECTRICITY GENERATED BY THOSE
16 RESOURCES ARE GREENHOUSE GAS NEUTRAL. The commission shall
17 determine, following an evidentiary hearing, the extent to which such
18 electric generation technologies utilized in an optional pricing program
19 may be used to comply with this standard. A fuel cell using hydrogen
20 derived from an eligible energy resource is also an eligible electric
21 generation technology. Fossil and nuclear fuels and their derivatives are
22 not eligible energy resources. For purposes of this section:

23 (I) "Biomass" means:

24 (A) Nontoxic plant matter consisting of agricultural crops or their
25 byproducts, urban wood waste, mill residue, slash, or brush;

26 (B) Animal wastes and products of animal wastes; or

27 (C) Methane produced at landfills or as a by-product of the

1 treatment of wastewater residuals.

2 (II) "COAL MINE METHANE" MEANS METHANE CAPTURED FROM
3 ACTIVE AND INACTIVE COAL MINES WHERE THE METHANE IS ESCAPING TO
4 THE ATMOSPHERE. IN THE CASE OF METHANE ESCAPING FROM ACTIVE
5 MINES, ONLY METHANE VENTED IN THE NORMAL COURSE OF MINE
6 OPERATIONS THAT IS NATURALLY ESCAPING TO THE ATMOSPHERE IS COAL
7 MINE METHANE FOR PURPOSES OF ELIGIBILITY UNDER THIS SECTION.

8 ~~(H)~~ (III) "Distributed renewable electric generation" or
9 "distributed generation" means:

10 (A) Retail distributed generation; and

11 (B) Wholesale distributed generation.

12 (IV) "GREENHOUSE GAS NEUTRAL", WITH RESPECT TO A COAL
13 MINE METHANE OR SYNTHETIC GAS FACILITY, MEANS THAT THE VOLUME
14 OF GREENHOUSE GASES EMITTED INTO THE ATMOSPHERE FROM THE
15 CONVERSION OF FUEL TO ELECTRICITY IS NO GREATER THAN THE VOLUME
16 OF GREENHOUSE GASES THAT WOULD HAVE BEEN EMITTED INTO THE
17 ATMOSPHERE OVER THE NEXT FIVE YEARS, BEGINNING WITH THE PLANNED
18 DATE OF OPERATION OF THE FACILITY, IF THE FUEL HAD NOT BEEN
19 CONVERTED TO ELECTRICITY, WHERE GREENHOUSE GASES ARE MEASURED
20 IN TERMS OF CARBON DIOXIDE EQUIVALENT.

21 (V) "PYROLYSIS" MEANS THE THERMOCHEMICAL DECOMPOSITION
22 OF MATERIAL AT ELEVATED TEMPERATURES WITHOUT THE PARTICIPATION
23 OF OXYGEN.

24 ~~(H)~~ (VI) "Recycled energy" means energy produced by a
25 generation unit with a nameplate capacity of not more than fifteen
26 megawatts that converts the otherwise lost energy from the heat from
27 exhaust stacks or pipes to electricity and that does not combust additional

1 fossil fuel. "Recycled energy" does not include energy produced by any
2 system that uses energy, lost or otherwise, from a process whose primary
3 purpose is the generation of electricity, including, without limitation, any
4 process involving engine-driven generation or pumped hydroelectricity
5 generation.

6 ~~(IV)~~ (VII) "Renewable energy resources" means solar, wind,
7 geothermal, biomass, new hydroelectricity with a nameplate rating of ten
8 megawatts or less, and hydroelectricity in existence on January 1, 2005,
9 with a nameplate rating of thirty megawatts or less.

10 ~~(V)~~ (VIII) "Retail distributed generation" means a renewable
11 energy resource that is located on the site of a customer's facilities and is
12 interconnected on the customer's side of the utility meter. In addition,
13 retail distributed generation shall provide electric energy primarily to
14 serve the customer's load and shall be sized to supply no more than one
15 hundred twenty percent of the average annual consumption of electricity
16 by the customer at that site. For purposes of this subparagraph ~~(V)~~ (VIII),
17 the customer's "site" includes all contiguous property owned or leased by
18 the customer without regard to interruptions in contiguity caused by
19 easements, public thoroughfares, transportation rights-of-way, or utility
20 rights-of-way.

21 ~~(VI)~~ (IX) "Wholesale distributed generation" means a renewable
22 energy resource ~~in Colorado~~ with a nameplate rating of thirty megawatts
23 or less and that does not qualify as retail distributed generation.

24 (c) Electric resource standards:

25 (II) (A) Of the amounts of distributed generation in
26 sub-subparagraphs (C), (D), and (E) of subparagraph (I) AND
27 SUB-SUBPARAGRAPH (D) OF SUBPARAGRAPH (V) of this paragraph (c), at

1 least one-half ~~shall~~ MUST be derived from retail distributed generation.

2 (III) Each kilowatt-hour of electricity generated from eligible
3 energy resources, ~~in Colorado,~~ other than retail distributed generation
4 ~~shall be counted~~ AND OTHER THAN ELIGIBLE ENERGY RESOURCES
5 BEGINNING OPERATION ON OR AFTER JANUARY 1, 2015, COUNTS as one
6 and ~~one-quarter~~ ONE-FOURTH kilowatt-hours for the purposes of
7 compliance with this standard.

8 (V) Notwithstanding any other provision of law but subject to
9 subsection (4) of this section, the electric resource standards ~~shall~~ MUST
10 require each cooperative electric association THAT IS A QUALIFYING
11 RETAIL UTILITY AND THAT PROVIDES SERVICE TO FEWER THAN ONE
12 HUNDRED THOUSAND METERS, and EACH municipally owned utility that
13 is a qualifying retail utility, to generate, or cause to be generated,
14 electricity from eligible energy resources in the following minimum
15 amounts:

16 (D) Ten percent of retail electricity sales in Colorado for the years
17 2020 and thereafter, OF WHICH SALES ONE-TENTH, OR ONE PERCENT OF
18 TOTAL RETAIL ELECTRICITY SALES, ARE FROM DISTRIBUTED GENERATION.

19 (V.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH
20 COOPERATIVE ELECTRIC ASSOCIATION THAT PROVIDES ELECTRICITY AT
21 RETAIL TO ITS CUSTOMERS AND SERVES ONE HUNDRED THOUSAND OR
22 MORE METERS SHALL GENERATE OR CAUSE TO BE GENERATED AT LEAST
23 TWENTY-FIVE PERCENT OF THE ENERGY IT PROVIDES TO ITS CUSTOMERS
24 FROM ELIGIBLE ENERGY RESOURCES IN THE YEARS 2020 AND THEREAFTER.

25 (VI) Each kilowatt-hour of electricity generated from eligible
26 energy resources at a community-based project ~~shall~~ MUST be counted as
27 one and one-half kilowatt-hours. For purposes of this subparagraph (VI),

1 "community-based project" means a project: ~~located in Colorado:~~

2 (f) Policies for the recovery of costs incurred with respect to these
3 standards for qualifying retail utilities that are subject to rate regulation
4 by the commission. These policies ~~shall~~ MUST provide incentives to
5 qualifying retail utilities to invest in eligible energy resources ~~in the state~~
6 ~~of Colorado. Such policies shall~~ AND MUST include:

7 (g) Retail rate impact rule:

8 (I) (A) Except as otherwise provided in subparagraph (IV) of this
9 paragraph (g), for each qualifying utility, the commission shall establish
10 a maximum retail rate impact for ~~this section~~ THE APPLICABLE
11 RENEWABLE ENERGY STANDARD of two percent of the total electric bill
12 annually for each customer. The retail rate impact shall be determined net
13 of new alternative sources of electricity supply from noneligible energy
14 resources that are reasonably available at the time of the determination.

15 (IV) (A) For cooperative electric associations, the maximum retail
16 rate impact for this section is ~~one~~ TWO percent of the total electric bill
17 annually for each customer.

18 (8) **Qualifying wholesale utilities - definition - electric resource**
19 **standard - tradable credits - reports.** (a) **Definition.** EACH
20 GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC ASSOCIATION
21 THAT PROVIDES WHOLESALE ELECTRIC SERVICE DIRECTLY TO COLORADO
22 ELECTRIC ASSOCIATIONS THAT ARE ITS MEMBERS IS A QUALIFYING
23 WHOLESALE UTILITY. COMMISSION RULES ADOPTED UNDER SUBSECTIONS
24 (1) TO (7) OF THIS SECTION DO NOT APPLY DIRECTLY TO QUALIFYING
25 WHOLESALE UTILITIES, AND THIS SUBSECTION (8) DOES NOT PROVIDE THE
26 COMMISSION WITH ADDITIONAL REGULATORY AUTHORITY OVER
27 QUALIFYING WHOLESALE UTILITIES.

1 (b) **Electric resource standard.** NOTWITHSTANDING ANY OTHER
2 PROVISION OF LAW, EACH QUALIFYING WHOLESALE UTILITY SHALL
3 GENERATE, OR CAUSE TO BE GENERATED, AT LEAST TWENTY-FIVE PERCENT
4 OF THE ENERGY IT PROVIDES TO ITS COLORADO MEMBERS AT WHOLESALE
5 FROM ELIGIBLE ENERGY RESOURCES IN THE YEAR 2020 AND THEREAFTER,
6 SUBJECT TO ANY LIMITATION ON THE PROVISION OF ELECTRICITY FROM
7 ELIGIBLE ENERGY RESOURCES TO AN INDIVIDUAL COLORADO MEMBER
8 ATTRIBUTABLE TO THE RETAIL RATE IMPACT LIMITATION IN
9 SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (IV) OF PARAGRAPH (g) OF
10 SUBSECTION (1) OF THIS SECTION (8).

11 (c) A QUALIFYING WHOLESALE UTILITY MAY COUNT THE ENERGY
12 GENERATED OR CAUSED TO BE GENERATED FROM ELIGIBLE ENERGY
13 RESOURCES BY ITS COLORADO MEMBERS OR BY THE QUALIFYING
14 WHOLESALE UTILITY ON BEHALF OF ITS COLORADO MEMBERS PURSUANT
15 TO SUBPARAGRAPH (V) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS
16 SECTION TOWARD COMPLIANCE WITH THE ENERGY RESOURCE STANDARD
17 ESTABLISHED IN THIS SUBSECTION.

18 (d) PREFERENCES FOR CERTAIN ELIGIBLE ENERGY RESOURCES AND
19 THE LIMIT ON THEIR APPLICABILITY ESTABLISHED IN SUBPARAGRAPH (VIII)
20 OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION MAY BE USED BY
21 A QUALIFYING WHOLESALE UTILITY IN MEETING THE ENERGY RESOURCE
22 STANDARD ESTABLISHED IN THIS SUBSECTION (8).

23 (e) **Tradable renewable energy credits.** A QUALIFYING
24 WHOLESALE UTILITY SHALL USE A SYSTEM OF TRADABLE RENEWABLE
25 ENERGY CREDITS TO COMPLY WITH THE ELECTRIC RESOURCE STANDARD
26 ESTABLISHED IN THIS SUBSECTION (8); EXCEPT THAT A RENEWABLE
27 ENERGY CREDIT ACQUIRED UNDER THIS SUBSECTION (8) EXPIRES AT THE

1 END OF THE FIFTH CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN
2 WHICH IT WAS GENERATED.

3 (f) IN IMPLEMENTING THE ELECTRIC RESOURCE STANDARD
4 ESTABLISHED IN THIS SUBSECTION (8), A QUALIFYING WHOLESALE UTILITY
5 SHALL ASSURE THAT THE COSTS, BOTH DIRECT AND INDIRECT,
6 ATTRIBUTABLE TO COMPLIANCE WITH THE STANDARD ARE RECOVERED
7 FROM ITS COLORADO MEMBERS. THE QUALIFYING WHOLESALE UTILITY
8 SHALL EMPLOY SUCH COST ALLOCATION METHODS AS ARE REQUIRED TO
9 ASSURE THAT ANY DIRECT OR INDIRECT COSTS ATTRIBUTABLE TO
10 COMPLIANCE WITH THE STANDARD ESTABLISHED IN THIS SUBSECTION (8)
11 DO NOT AFFECT THE COST OR PRICE OF THE QUALIFYING WHOLESALE
12 UTILITY'S SALES TO CUSTOMERS OUTSIDE OF COLORADO.

13 (g) **Reports.** EACH QUALIFYING WHOLESALE UTILITY SHALL
14 SUBMIT AN ANNUAL REPORT TO THE COMMISSION NO LATER THAN JUNE 1,
15 2014, AND JUNE 1 OF EACH YEAR THEREAFTER. IN ADDITION, THE
16 QUALIFYING WHOLESALE UTILITY SHALL POST AN ELECTRONIC COPY OF
17 EACH REPORT ON ITS WEB SITE AND SHALL PROVIDE THE COMMISSION WITH
18 AN ELECTRONIC COPY OF THE REPORT. IN EACH REPORT, THE QUALIFYING
19 WHOLESALE UTILITY SHALL:

20 (I) DESCRIBE THE STEPS IT TOOK DURING THE IMMEDIATELY
21 PRECEDING TWELVE MONTHS TO COMPLY WITH THE ELECTRIC RESOURCE
22 STANDARD ESTABLISHED IN THIS SUBSECTION (8);

23 (II) IN THE YEARS BEFORE 2020, DESCRIBE WHETHER IT IS MAKING
24 SUFFICIENT PROGRESS TOWARD MEETING THE STANDARD IN 2020 OR IS
25 LIKELY TO MEET THE 2020 STANDARD EARLY. IF IT IS NOT MAKING
26 SUFFICIENT PROGRESS TOWARD MEETING THE STANDARD IN 2020, IT SHALL
27 EXPLAIN WHY AND SHALL INDICATE THE STEPS IT INTENDS TO TAKE TO

1 INCREASE THE PACE OF PROGRESS; AND

2 (III) IN 2020 AND THEREAFTER, DESCRIBE WHETHER IT HAS
3 ACHIEVED COMPLIANCE WITH THE ELECTRIC RESOURCE STANDARD
4 ESTABLISHED IN THIS SUBSECTION (8) AND WHETHER IT ANTICIPATES
5 CONTINUING TO DO SO. IF IT HAS NOT ACHIEVED SUCH COMPLIANCE OR
6 DOES NOT ANTICIPATE CONTINUING TO DO SO, IT SHALL EXPLAIN WHY AND
7 SHALL INDICATE THE STEPS IT INTENDS TO TAKE TO MEET THE STANDARD
8 AND BY WHAT DATE.

9 (h) NOTHING IN THIS SUBSECTION (8) AMENDS OR WAIVES ANY
10 PROVISION OF SUBSECTIONS (1) TO (7) OF THIS SECTION.

11 **SECTION 2. Effective date.** This act takes effect July 1, 2013.

12 **SECTION 3. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.