

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 14-0249.01 Jennifer Berman

HOUSE BILL 14-1030

HOUSE SPONSORSHIP

Coram and Mitsch Bush, Fischer, Sonnenberg, Vigil

SENATE SPONSORSHIP

Schwartz and Roberts, Hodge

House Committees

Transportation & Energy

Senate Committees

Agriculture, Natural Resources, & Energy

A BILL FOR AN ACT

101 CONCERNING THE ESTABLISHMENT OF INCENTIVES FOR THE
102 DEVELOPMENT OF HYDROELECTRIC ENERGY SYSTEMS.

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>.)

Water Resources Review Committee. In order to promote the construction and operation of hydroelectric energy facilities in Colorado, the bill provides the following incentives:

! **Section 1** of the bill requires the state electrical board to approve the installation of a motor as a generator for a

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.

SENATE
2nd Reading Unamended
March 18, 2014

HOUSE
3rd Reading Unamended
February 13, 2014

HOUSE
Amended 2nd Reading
February 12, 2014

hydroelectric energy facility if the installation would be approved but for the fact that the motor is not being used in a manner commensurate with its nameplate;

! **Section 2** authorizes the department of natural resources to serve as the coordinating state agency for obtaining and compiling state agency comments about an application for a license or license exemption from the federal energy regulatory commission; and

! **Section 3** incorporates community hydroelectric energy facilities into the community solar garden statute, so that a group of community members may jointly subscribe to and receive electricity from a small hydroelectric energy facility located in or near the community.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-23-104, **amend**
3 (2) (f) and (2) (g) as follows:

4 **12-23-104. Board powers and duties - rules.** (2) In addition to
5 all other powers and duties conferred or imposed upon the board by this
6 article, the board is authorized to:

7 (f) Inspect and approve or disapprove the installation of electrical
8 wiring, renewable energy systems, apparatus, or equipment for electric
9 light, heat, and power according to the minimum standards in the national
10 electrical code or as prescribed in this article. WITH RESPECT TO A
11 HYDROELECTRIC ENERGY FACILITY, AN INSPECTOR SHALL INSPECT THE
12 INSTALLATION OF A HYDROELECTRIC ENERGY TURBINE-GENERATOR TO
13 POWER-INVERTER EQUIPMENT TRAIN, SUPPORTING ELECTRICAL WIRING
14 AND CABLING, OR OTHER AUXILIARY APPARATUSES OR EQUIPMENT
15 NEEDED TO PRODUCE ELECTRICAL HEAT, LIGHT, OR POWER IN
16 ACCORDANCE WITH:

17 (I) THE MINIMUM STANDARDS SET FORTH IN THE 2011 NATIONAL
18 ELECTRICAL CODE FOR SMALL WIND ELECTRICAL PRODUCTION, UNTIL THE

1 ADOPTION OF THE 2017 NATIONAL ELECTRICAL CODE; OR

2 (II) IF THE NATIONAL ELECTRICAL CODE IS UPDATED TO ADDRESS
3 HYDROELECTRIC ENERGY SPECIFICALLY, THE HYDROELECTRIC ENERGY
4 PROVISIONS OF THE UPDATED NATIONAL ELECTRICAL CODE.

5 (g) Review and approve or disapprove requests for exceptions to
6 the national electrical code in unique construction situations where a strict
7 interpretation of the code would result in unreasonable operational
8 conditions or unreasonable economic burdens, as long as public safety is
9 not compromised.

10 SECTION 2. In Colorado Revised Statutes, add 24-38.5-108 as
11 follows:

12 **24-38.5-108. State agency coordination of review of federal**
13 **license and license exemption applications for hydroelectric energy**
14 **projects - legislative declaration - definitions - rules. (1) Legislative**
15 **declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
16 THAT:

17 (a) HYDROELECTRIC ENERGY IS A RELIABLE, AFFORDABLE, AND
18 SUSTAINABLE ENERGY SOURCE AND IS THE LARGEST SOURCE OF CLEAN
19 ENERGY IN THE UNITED STATES;

20 (b) AS OF 2005, THERE WERE SIXTY-TWO OPERATING
21 HYDROELECTRIC ENERGY FACILITIES THROUGHOUT COLORADO, WITH A
22 COMBINED CAPACITY OF ONE THOUSAND ONE HUNDRED AND SIXTY-TWO
23 MEGAWATTS;

24 (c) ACCORDING TO A RECENT BUREAU OF RECLAMATION STUDY,
25 COLORADO CURRENTLY HAS MORE THAN THIRTY SITES ON WHICH NEW
26 HYDROELECTRIC ENERGY FACILITIES COULD BE PLACED AND A FEDERAL
27 DEPARTMENT OF ENERGY REPORT IDENTIFIES ANOTHER ELEVEN POTENTIAL

1 SITES. IF ALL OF THE IDENTIFIED SITES WERE CONSTRUCTED, THEY COULD
2 POWER OVER SIXTY-FIVE THOUSAND HOMES EACH YEAR.

3 (d) (I) TO CONSTRUCT, OPERATE, OR MAINTAIN A NONFEDERAL
4 HYDROELECTRIC ENERGY FACILITY, A PERSON MUST APPLY TO FERC FOR
5 A LICENSE OR A LICENSE EXEMPTION IF THE FACILITY IS LOCATED ON
6 NAVIGABLE WATERS IN THE UNITED STATES, OCCUPIES LANDS OF THE
7 UNITED STATES, UTILIZES SURPLUS WATER OR WATER POWER FROM A
8 UNITED STATES GOVERNMENT DAM, OR, UNDER SOME CIRCUMSTANCES,
9 IS LOCATED ON A STREAM OVER WHICH THE UNITED STATES CONGRESS
10 HAS COMMERCE CLAUSE JURISDICTION;

11 (II) AS PART OF FERC'S LICENSING PROCESS, AN APPLICANT FOR
12 A HYDROELECTRIC ENERGY FACILITY LICENSE OR LICENSE EXEMPTION
13 MUST MEET SPECIFIC PREFILING CONSULTING REQUIREMENTS, INCLUDING
14 A REQUIREMENT TO CONSULT WITH RELEVANT STATE AGENCIES ABOUT
15 THE PROPOSED PROJECT AND TO PROVIDE THOSE AGENCIES WITH AN
16 OPPORTUNITY TO COMMENT ON THE APPLICATION AND REQUEST ANY
17 STUDIES THAT MAY BE RELEVANT TO THE PROPOSED PROJECT;

18 (III) TO PROMOTE THE CONSTRUCTION AND OPERATION OF NEW
19 HYDROELECTRIC ENERGY FACILITIES, THE UNITED STATES CONGRESS
20 PASSED THE "HYDROPOWER REGULATORY EFFICIENCY ACT OF 2013",
21 FEDERAL PUBLIC LAW 113-23, AS AMENDED, WHICH EXEMPTS CERTAIN
22 HYDROELECTRIC ENERGY FACILITIES THAT HAVE AN INSTALLED CAPACITY
23 OF FEWER THAN TEN THOUSAND KILOWATTS FROM THE LICENSING
24 REQUIREMENTS AND STREAMLINES THE APPROVAL PROCESS FOR
25 HYDROELECTRIC ENERGY FACILITIES GENERALLY; AND

26 (e) TO FURTHER PROMOTE THE CONSTRUCTION AND OPERATION OF
27 NEW HYDROELECTRIC ENERGY FACILITIES IN COLORADO, THE ROLE OF

1 STATE AGENCIES IN CONSULTING ON A HYDROELECTRIC ENERGY FACILITY
2 APPLICATION FOR A FEDERAL LICENSE OR LICENSE EXEMPTION SHOULD BE
3 STREAMLINED. TO THAT END, THE GENERAL ASSEMBLY DESIGNATES THE
4 OFFICE AS THE COORDINATING STATE AGENCY TO FACILITATE THE
5 TIMELY STATE AGENCY REVIEW OF A PROPOSED PROJECT.

6 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
7 OTHERWISE REQUIRES:

8 (a) "APPLICANT" MEANS A PERSON APPLYING FOR A FERC LICENSE
9 OR LICENSE EXEMPTION FOR A HYDROELECTRIC ENERGY FACILITY.

10

11 (b) "FERC" MEANS THE FEDERAL ENERGY REGULATORY
12 COMMISSION.

13 (c) "HYDROELECTRIC ENERGY" MEANS THE GENERATION AND
14 DELIVERY TO THE INTERCONNECTION METER OF ANY SOURCE OF
15 ELECTRICAL OR MECHANICAL ENERGY BY HARNESSING THE KINETIC
16 ENERGY OF WATER. "HYDROELECTRIC ENERGY" INCLUDES PUMPED
17 HYDROELECTRICITY, AS DEFINED IN SECTION 40-2-123 (3.2) (c) (II), C.R.S.

18 (d) "OFFICE" MEANS THE COLORADO ENERGY OFFICE.

19 (3) **Coordination of state agency review by the Colorado**
20 **energy office.** (a) AN APPLICANT IN COLORADO MUST CONTACT, AND
21 SUBMIT RELEVANT DOCUMENTATION TO, THE OFFICE FOR THE PURPOSE OF
22 OBTAINING STATE AGENCY REVIEW OF HIS OR HER FERC APPLICATION, AS
23 REQUIRED AS PART OF THE CONSULTATION REQUIREMENTS SET FORTH IN
24 18 C.F.R. 4.38 CONCERNING FERC LICENSE AND LICENSE EXEMPTION
25 PROCEDURES.

26 (b) THE OFFICE SHALL COORDINATE STATE AGENCY REVIEW OF THE
27 APPLICATION BY PROVIDING THE FOLLOWING TO ALL RELEVANT STATE

1 AGENCIES WITH POTENTIAL INTEREST IN THE APPLICANT'S HYDROELECTRIC
2 ENERGY PROJECT:

- 3 (I) NOTICE VIA EMAIL OF THE APPLICATION;
- 4 (II) ELECTRONIC COPIES OF ANY DOCUMENTATION RECEIVED FROM
5 THE APPLICANT;
- 6 (III) A GENERAL DESCRIPTION OF THE FERC REVIEW PROCESS; AND
- 7 (IV) THE DEADLINE BY WHICH THE OTHER STATE AGENCIES MUST
8 SUBMIT ANY COMMENTS ABOUT THE APPLICATION TO THE OFFICE. THE
9 OFFICE SHALL SET A DEADLINE THAT IS SUFFICIENTLY IN ADVANCE OF THE
10 EXPIRATION OF THE COMMENT PERIOD PROVIDED FOR BY FERC TO
11 ALLOW THE OFFICE TO COMPILE OTHER AGENCIES' COMMENTS AND ITS
12 OWN COMMENTS FOR TIMELY SUBMISSION TO FERC.

13 (c) UPON THE EXPIRATION OF THE DEADLINE SET BY THE OFFICE
14 FOR OTHER AGENCIES TO REVIEW AN APPLICATION, THE OFFICE SHALL
15 COMPILE ANY COMMENTS FROM OTHER AGENCIES AND ITS OWN COMMENTS
16 AND SUBMIT THE COMMENTS TO FERC BEFORE THE EXPIRATION OF THE
17 COMMENT PERIOD ESTABLISHED BY FERC. THEREAFTER, THE OFFICE
18 SHALL SERVE AS A LIAISON BETWEEN FERC AND THE OTHER STATE
19 AGENCIES CONCERNING ANY DISCUSSION OF THE COMMENTS SUBMITTED.

20 (d) THE OFFICE SHALL PROVIDE INFORMATION ON ITS WEB SITE
21 ABOUT THE STREAMLINED REVIEW PROCESS SET FORTH IN THIS SECTION.

22 (e) THE DIRECTOR OF THE OFFICE MAY ESTABLISH GUIDELINES
23 CONCERNING THE PROCESS AND DEADLINES FOR DISSEMINATING
24 INFORMATION TO OTHER STATE AGENCIES AND COLLECTING OTHER STATE
25 AGENCIES' COMMENTS.

26 [REDACTED]

27 **SECTION 3. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2014 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.