

Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 04-0120.02 Gregg Fraser

SENATE BILL 04-168

SENATE SPONSORSHIP

Phillips,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business Affairs & Labor

House Committees

A BILL FOR AN ACT

101 CONCERNING RURAL RENEWABLE ELECTRIC RESOURCES IN
102 COLORADO.

Bill Summary

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

Authorizes the creation of renewable energy cooperatives (cooperatives) to promote electric energy efficiency technologies and to generate, transmit, and sell electricity from renewable resources and technologies at wholesale.

Allows the Colorado agricultural development authority and the Colorado housing and finance authority to issue revenue bonds to construct renewable energy generation facilities and electric transmission lines to facilitate the transmission of electricity generated by

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
Amended 2nd Reading
February 17, 2004

cooperatives. Requires the bonds to be repaid from revenues derived from the use of the generation facilities or transmission lines. Provides that the bonds shall not constitute indebtedness of the state and that income derived from the bonds shall be exempt from specified state and local taxes.

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

2 **SECTION 1.** Part 2 of article 56 of title 7, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **7-56-210. Renewable energy cooperatives.** (1) IT IS THE POLICY
6 OF THIS STATE TO ENCOURAGE LOCAL OWNERSHIP OF RENEWABLE ENERGY
7 GENERATION FACILITIES TO IMPROVE THE FINANCIAL STABILITY OF RURAL
8 COMMUNITIES.

9 (2) SUBJECT TO THE PROVISIONS OF THIS ARTICLE, A RENEWABLE
10 ENERGY COOPERATIVE MAY BE ORGANIZED FOR THE PURPOSE OF
11 PROMOTING ELECTRIC ENERGY EFFICIENCY TECHNOLOGIES TO ITS
12 MEMBERS, GENERATING ELECTRICITY FROM RENEWABLE RESOURCES AND
13 TECHNOLOGIES, AND TRANSMITTING AND SELLING THE ELECTRICITY AT
14 WHOLESALE.

15 (3) FOR PURPOSES OF THIS SECTION, "RENEWABLE RESOURCES OR
16 TECHNOLOGIES" MEANS BIOMASS, GEOTHERMAL ENERGY, SOLAR ENERGY,
17 SMALL HYDROELECTRICITY, AND WIND ENERGY. HYDROGEN DERIVED
18 FROM BIOMASS, GEOTHERMAL ENERGY, SOLAR ENERGY, SMALL
19 HYDROELECTRICITY, AND WIND ENERGY IS ALSO CONSIDERED TO BE
20 RENEWABLE ENERGY FOR THE PURPOSES OF THIS ARTICLE. "RENEWABLE
21 RESOURCES OR TECHNOLOGIES" DOES NOT INCLUDE PUMPED STORAGE
22 FACILITIES; HYDROELECTRICITY OTHER THAN SMALL HYDROELECTRICITY;
23 COAL, NATURAL GAS, OIL, PROPANE, OR ANY OTHER FOSSIL FUEL; OR

1 NUCLEAR ENERGY. "RENEWABLE RESOURCES OR TECHNOLOGIES" ALSO
2 DOES NOT INCLUDE HYDROGEN DERIVED FROM PUMPED STORAGE
3 FACILITIES; HYDROELECTRICITY OTHER THAN SMALL HYDROELECTRICITY;
4 COAL, NATURAL GAS, OIL, PROPANE, OR ANY OTHER FOSSIL FUEL; OR
5 NUCLEAR ENERGY.

6 **SECTION 2.** Part 5 of article 56 of title 7, Colorado Revised
7 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
8 read:

9 **7-56-510. Renewable energy cooperatives - powers.** (1) IN
10 ADDITION TO THE POWERS GRANTED IN THIS ARTICLE, RENEWABLE ENERGY
11 COOPERATIVES MAY GENERATE ELECTRICITY FROM RENEWABLE
12 RESOURCES OR TECHNOLOGIES AND TRANSMIT AND SELL ELECTRICITY AT
13 WHOLESALE.

14 (2) NO RENEWABLE ENERGY COOPERATIVE SHALL SELL
15 ELECTRICITY AT RETAIL OR HAVE A CERTIFICATED TERRITORY IN THE
16 STATE EXCEPT AS ALLOWED FOR ITS OWN SERVICE OR PURSUANT TO PUBLIC
17 UTILITY LAW OR OTHER LEGAL AUTHORITY.

18 _____
19 **SECTION 3.** Part 1 of article 75 of title 35, Colorado Revised
20 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
21 read:

22 **35-75-111.5. Issuance of bonds to construct renewable energy**
23 **generation facilities and electric transmission lines - renewable energy**
24 **cooperatives.** (1) TO FACILITATE THE TRANSMISSION OF ELECTRICITY
25 GENERATED BY A RENEWABLE ENERGY COOPERATIVE ESTABLISHED
26 PURSUANT TO SECTION 7-56-210, C.R.S., THE AUTHORITY MAY ISSUE
27 REVENUE BONDS IN AMOUNTS SUFFICIENT TO PAY THE FOLLOWING

1 DESCRIBED COSTS OF CONSTRUCTION, UPGRADING, AND ACQUISITION,
2 INCLUDING ANY REQUIRED INTEREST ON THE BONDS DURING
3 CONSTRUCTION, UPGRADING, AND ACQUISITION, PLUS ALL AMOUNTS
4 REQUIRED FOR THE COSTS OF BOND ISSUANCE AND ANY REQUIRED
5 RESERVES ON THE BONDS:

6 (a) CONSTRUCTION OF RENEWABLE ENERGY GENERATION
7 FACILITIES;

8 (b) CONSTRUCTION OR UPGRADING OF ELECTRIC TRANSMISSION
9 LINES AND APPURTENANCES TO BE USED FOR THE TRANSFER OF
10 ELECTRICITY AT ONE HUNDRED FIFTEEN KILOVOLTS OR GREATER;

11 (c) ACQUISITION OF THE RIGHT-OF-WAY ON WHICH RENEWABLE
12 ENERGY GENERATION FACILITIES OR ELECTRIC TRANSMISSION LINES AND
13 APPURTENANCES TO BE USED FOR THE TRANSFER OF ELECTRICITY AT ONE
14 HUNDRED FIFTEEN KILOVOLTS OR GREATER ARE TO BE CONSTRUCTED; AND

15 (d) CONSTRUCTION OR UPGRADING OF ELECTRIC DISTRIBUTION
16 LINES AND APPURTENANCES TO BE USED TO CONNECT RENEWABLE
17 RESOURCES OR TECHNOLOGIES TO ELECTRIC TRANSMISSION LINES AND
18 APPURTENANCES.

19 (2) REVENUE BONDS, AND INTEREST THEREON, ISSUED PURSUANT
20 TO THIS SECTION SHALL BE PAYABLE FROM REVENUES DERIVED FROM USE
21 OF THE RENEWABLE ENERGY GENERATION FACILITIES OR ELECTRIC
22 TRANSMISSION LINES CONSTRUCTED, UPGRADED, OR ACQUIRED THROUGH
23 THE USE OF BOND PROCEEDS.

24 (3) REVENUE BONDS, INCLUDING REFUNDING REVENUE BONDS,
25 ISSUED HEREUNDER SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE
26 STATE, NOR SHALL THEY CONSTITUTE INDEBTEDNESS WITHIN THE MEANING
27 OF ANY CONSTITUTIONAL OR STATUTORY PROVISION LIMITING THE

1 INCURRING OF INDEBTEDNESS.

2 (4) THE PROCEEDS OF BONDS, REVENUES, AND RECEIPTS DERIVED
3 FROM THE CONSTRUCTION, UPGRADING, OR ACQUISITION ACTIVITIES
4 DESCRIBED IN THIS SECTION THAT ARE FINANCED IN WHOLE OR IN PART BY
5 THE BONDS, AND INTEREST AND INCOME EARNED ON THE DEPOSIT AND
6 INVESTMENT OF SUCH PROCEEDS, REVENUES, AND RECEIPTS, SHALL NOT BE
7 INCLUDED IN STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20
8 OF ARTICLE X OF THE STATE CONSTITUTION AND ARTICLE 77 OF TITLE 24,
9 C.R.S."

10 (5) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS
11 AUTHORIZING THE CONTRACTING BY THE STATE OF A DEBT OR LOAN IN ANY
12 FORM, NOR THE PLEDGING OF THE GENERAL TAXES OF THE STATE.
13 REVENUE BONDS ISSUED PURSUANT TO THIS SECTION SHALL NOT BE
14 CONSTRUED TO BE MORAL OBLIGATION BONDS. THE OWNERS OR HOLDERS
15 OF SUCH BONDS SHALL NOT LOOK TO ANY OTHER REVENUES OF THE STATE
16 FOR THE PAYMENT OF THE BONDS; SHALL NOT LOOK TO ANY LEGAL,
17 EQUITABLE, OR MORAL OBLIGATION ON THE PART OF THE STATE TO PAY
18 ANY PORTION OF THE BONDS; AND SHALL NOT LOOK TO THE STATE
19 GENERAL FUND OR ANY OTHER FUND OF THE STATE FOR THE PAYMENT OF
20 PRINCIPAL OR INTEREST OF SUCH OBLIGATION.

21 (6) REVENUE BONDS, INCLUDING REFUNDING REVENUE BONDS,
22 ISSUED HEREUNDER AND THE INCOME DERIVED THEREFROM SHALL BE
23 EXEMPT FROM ALL STATE, COUNTY, AND MUNICIPAL TAXATION IN THE
24 STATE, EXCEPT COLORADO ESTATE TAXES.

25 SECTION 4. Article 3 of title 40, Colorado Revised Statutes, is
26 amended BY THE ADDITION OF A NEW SECTION to read:

27 **40-3-107.5. Interconnection with renewable energy**

1 **cooperatives.** ELECTRIC UTILITIES SHALL INTERCONNECT WITH
2 RENEWABLE ENERGY COOPERATIVES ORGANIZED PURSUANT TO SECTION
3 7-56-210, C.R.S. EVERY RENEWABLE ENERGY COOPERATIVE THAT
4 DESIRES TO INTERCONNECT ITS SYSTEM WITH ANY FACILITIES OWNED OR
5 OPERATED BY A PUBLIC UTILITY SHALL COMPLY WITH APPLICABLE
6 INTERCONNECTION RULES AND WITH REASONABLE STANDARDS AND
7 POLICIES RELATED TO THE RELIABILITY OF THE PUBLIC UTILITY SYSTEM.
8 ALL SUCH STANDARDS AND POLICIES, AS WELL AS ALL COSTS FOR THE
9 INTERCONNECTION SHALL BE FAIR, REASONABLE, AND
10 NONDISCRIMINATORY TO EACH RENEWABLE ENERGY COOPERATIVE.

11 **SECTION 5. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.