A BILL FOR AN ACT

CONCERNING AUTHORIZATION FOR AN INVESTOR-OWNED UTILITY TO ENTER INTO A COLLABORATION AGREEMENT WITH A COMMUNITY.

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://leg.colorado.gov.)

Section 1 of the bill authorizes the creation of an energy and innovation collaboration agreement between an investor-owned utility and the government of a city, county, town, or city and county served by that utility. The agreement is subject to approval by the public utilities commission, which is directed to ensure that safe and reliable service is
maintained and that the utility's costs of complying with the agreement are paid for by the community and not imposed on other customers of the utility.

Section 2 postpones the expiration of an existing property tax exemption relevant to such agreements by 6 years, from 2021 to 2027.

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

SECTION 1. In Colorado Revised Statutes, add 40-4-102.5 as follows:

40-4-102.5. Colorado community energy and innovation collaboration act - legislative declaration - definitions - rules.

(1) Short title. The short title of this section is the "COLORADO COMMUNITY ENERGY AND INNOVATION COLLABORATION ACT".

(2) Legislative declaration. The general assembly hereby finds and determines that:

(a) The purpose of this section is to encourage and implement a process for eligible communities in Colorado to enter into mutually acceptable agreements with regulated utilities to achieve their individual community energy goals in accordance with this section; and

(b) Such collaborations will benefit Colorado.

(3) Definitions. As used in this section, unless the context otherwise requires:

(a) "Agreement" means an energy and innovation collaboration agreement entered into between an investor-owned utility and an eligible community pursuant to this section.

(b) "Eligible community" means any community, including any municipality, city, county, city and county, or town, within
THE CERTIFICATED SERVICE TERRITORY OF AN INVESTOR-OWNED UTILITY.

(4) AN ELIGIBLE COMMUNITY MAY NEGOTIATE THE AGREEMENT WITH THE INVESTOR-OWNED UTILITY THAT PROVIDES ELECTRIC, NATURAL GAS, OR STEAM SERVICE TO THE ELIGIBLE COMMUNITY.

(5) THE AGREEMENT MAY:

(a) INCLUDE ANY PROVISIONS THAT PROMOTE INNOVATION, ECONOMIC DEVELOPMENT, INCREASED USE OF ELIGIBLE ENERGY RESOURCES, AND OTHER ENERGY-RELATED GOALS WITHIN THE COMMUNITY; AND

(b) PROPOSE NEW, EXPANDED, OR MODIFIED UTILITY PLANS, PROGRAMS, OR OFFERINGS AS APPROPRIATE TO ACHIEVE THE GOALS OF THE AGREEMENT CONSISTENT WITH THIS SECTION.

(6) (a) UPON EXECUTION OF AN AGREEMENT, THE UTILITY AND ELIGIBLE COMMUNITY SHALL JOINTLY SUBMIT THE AGREEMENT TO THE COMMISSION FOR APPROVAL. THE COMMISSION SHALL ACT EXPEDITIOUSLY ON THE APPLICATION FOR APPROVAL.

(b) THE COMMISSION MAY APPROVE THE AGREEMENT, INCLUDING THE UTILITY’S RECOVERY OF COSTS ASSOCIATED WITH THE AGREEMENT FROM THE ELIGIBLE COMMUNITY, IF THE COMMISSION FINDS THAT THE AGREEMENT:

(I) WILL NOT INTERFERE WITH THE RELIABILITY OR SAFETY OF ELECTRIC, NATURAL GAS, OR STEAM SERVICE PROVIDED BY THE UTILITY;

(II) WILL NOT SHIFT COSTS TO CUSTOMERS WHO ARE NOT LOCATED IN THE ELIGIBLE COMMUNITY OR NOT OTHERWISE PARTICIPATING IN THE AGREEMENT;

(III) PROVIDES THAT THE ELIGIBLE COMMUNITY CAN AND WILL BE RESPONSIBLE FOR ALL CURRENT FIXED AND ADDITIONAL COSTS INCURRED
BY THE UTILITY ASSOCIATED WITH THE AGREEMENT; EXCEPT THAT THE
COMMISSION NEED NOT APPROVE ANY FUNDING MECHANISM ESTABLISHED
BY THE ELIGIBLE COMMUNITY; AND

(IV) INCLUDES AN ATTESTATION BY THE ELIGIBLE COMMUNITY
THAT IT WILL:

(A) OBTAIN OR HAS OBTAINED ALL NECESSARY AUTHORITY TO
ENTER INTO THE AGREEMENT;

(B) OBTAIN OR HAS OBTAINED ALL NECESSARY APPROVALS FOR
THE AGREEMENT; AND

(C) ESTABLISH A LEGALLY ENFORCEABLE FUNDING MECHANISM TO
COVER THE COSTS OF THE AGREEMENT.

(c) THE COMMISSION MAY APPROVE THE AGREEMENT BASED ON
THE UTILITY'S AND ELIGIBLE COMMUNITY'S BEST ESTIMATES OF THE
FUTURE COST OF ACHIEVING THE REQUIREMENTS OF THE AGREEMENT. THE
COMMISSION MAY REQUIRE THE UTILITY AND THE ELIGIBLE COMMUNITY
TO MAKE COMPLIANCE FILINGS REGARDING THE ACTUAL COSTS INCURRED
PURSUANT TO THE AGREEMENT. ACTUAL COSTS INCURRED PURSUANT TO
THE AGREEMENT ARE RECOVERABLE IN ACCORDANCE WITH THE TERMS OF
THE AGREEMENT AND THIS SECTION.

(d) THE COMMISSION MAY APPROVE THE AGREEMENT CONTINGENT
UPON THE ELIGIBLE COMMUNITY OBTAINING ALL REQUIRED AUTHORITY,
APPROVALS, AND FUNDING AS CONTEMPLATED IN THE AGREEMENT. FOR
PROPOSED COMMUNITY-WIDE PROGRAMS UNDER THE AGREEMENT, THE
ELIGIBLE COMMUNITY SHALL EVIDENCE COMMUNITY APPROVAL IN A
MANNER AUTHORIZED BY LAW, INCLUDING, AS APPROPRIATE, A Duly
ADOPTED ORDINANCE OR RESOLUTION OR BY SUBMITTING THE MATTER TO
VOTER APPROVAL AS A BALLOT MEASURE.
(7) (a) A utility and an eligible community may jointly submit the agreement to the commission for approval at any time. Utilities and the commission shall account for any approved agreement in the utilities' electric resource planning processes, but an agreement need not be submitted in conjunction with a utility's electric resource plan.

(b) For resources acquired under an agreement pursuant to this section, as applicable:

(I) The resources must be included in the calculations under section 40-2-124 (1)(f)(I); except that they must not be included for purposes of compliance with the electric resource standards in section 40-2-124 (1)(c)(I);

(II) The resources must be acquired using a competitive bidding process unless acquired under section 40-2-124 (1)(f)(I);

(III) Resources to be acquired under multiple approved agreements may be aggregated; and

(IV) The retail rate impact limitations of section 40-2-124 (1)(g)(I) do not apply.

(8) For an eligible community served by more than one utility, the agreement must apply only to the certificated service territory of the investor-owned utility.

(9) The commission may adopt any rules necessary for the implementation of this section, taking into consideration the commission's electric resource planning process.

SECTION 2. In Colorado Revised Statutes, 39-3-118.7, amend (2) as follows:

39-3-118.7. Community solar garden - partial business
personal property tax exemption - definitions. (2) For property tax years commencing on and after January 1, 2015, but before January 1, 2027, there is exempt from the levy and collection of property tax the percentage of alternating current electricity capacity of a community solar garden that is attributed to residential or governmental subscribers, or to subscribers that are organizations that have been granted property tax exemptions pursuant to sections 39-3-106 to 39-3-113.5.

SECTION 3. Applicability. This act applies to agreements entered into on or after the effective date of this act.

SECTION 4. 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.