

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0883.01 Duane Gall x4335

HOUSE BILL 18-1428

HOUSE SPONSORSHIP

Becker K.,

SENATE SPONSORSHIP

Cooke,

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 CONCERNING AUTHORIZATION FOR AN INVESTOR-OWNED UTILITY TO
102 ENTER INTO A COLLABORATION AGREEMENT WITH A
103 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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

1 THE CERTIFICATED SERVICE TERRITORY OF AN INVESTOR-OWNED UTILITY.

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

5 (5) THE AGREEMENT MAY:

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

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

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

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

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

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

26 (III) PROVIDES THAT THE ELIGIBLE COMMUNITY CAN AND WILL BE
27 RESPONSIBLE FOR ALL CURRENT FIXED AND ADDITIONAL COSTS INCURRED

1 BY THE UTILITY ASSOCIATED WITH THE AGREEMENT; EXCEPT THAT THE
2 COMMISSION NEED NOT APPROVE ANY FUNDING MECHANISM ESTABLISHED
3 BY THE ELIGIBLE COMMUNITY; AND

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

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

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

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

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

20 (d) THE COMMISSION MAY APPROVE THE AGREEMENT CONTINGENT
21 UPON THE ELIGIBLE COMMUNITY OBTAINING ALL REQUIRED AUTHORITY,
22 APPROVALS, AND FUNDING AS CONTEMPLATED IN THE AGREEMENT. FOR
23 PROPOSED COMMUNITY-WIDE PROGRAMS UNDER THE AGREEMENT, THE
24 ELIGIBLE COMMUNITY SHALL EVIDENCE COMMUNITY APPROVAL IN A
25 MANNER AUTHORIZED BY LAW, INCLUDING, AS APPROPRIATE, A DULY
26 ADOPTED ORDINANCE OR RESOLUTION OR BY SUBMITTING THE MATTER TO
27 VOTER APPROVAL AS A BALLOT MEASURE.

1 (7) (a) A UTILITY AND AN ELIGIBLE COMMUNITY MAY JOINTLY
2 SUBMIT THE AGREEMENT TO THE COMMISSION FOR APPROVAL AT ANY
3 TIME. UTILITIES AND THE COMMISSION SHALL ACCOUNT FOR ANY
4 APPROVED AGREEMENT IN THE UTILITIES' ELECTRIC RESOURCE PLANNING
5 PROCESSES, BUT AN AGREEMENT NEED NOT BE SUBMITTED IN
6 CONJUNCTION WITH A UTILITY'S ELECTRIC RESOURCE PLAN.

7 (b) FOR RESOURCES ACQUIRED UNDER AN AGREEMENT PURSUANT
8 TO THIS SECTION, AS APPLICABLE:

9 (I) THE RESOURCES MUST BE INCLUDED IN THE CALCULATIONS
10 UNDER SECTION 40-2-124 (1)(f)(I); EXCEPT THAT THEY MUST NOT BE
11 INCLUDED FOR PURPOSES OF COMPLIANCE WITH THE ELECTRIC RESOURCE
12 STANDARDS IN SECTION 40-2-124 (1)(c)(I);

13 (II) THE RESOURCES MUST BE ACQUIRED USING A COMPETITIVE
14 BIDDING PROCESS UNLESS ACQUIRED UNDER SECTION 40-2-124 (1)(f)(I);

15 (III) RESOURCES TO BE ACQUIRED UNDER MULTIPLE APPROVED
16 AGREEMENTS MAY BE AGGREGATED; AND

17 (IV) THE RETAIL RATE IMPACT LIMITATIONS OF SECTION 40-2-124
18 (1)(g)(I) DO NOT APPLY.

19 (8) FOR AN ELIGIBLE COMMUNITY SERVED BY MORE THAN ONE
20 UTILITY, THE AGREEMENT MUST APPLY ONLY TO THE CERTIFICATED
21 SERVICE TERRITORY OF THE INVESTOR-OWNED UTILITY.

22 (9) THE COMMISSION MAY ADOPT ANY RULES NECESSARY FOR THE
23 IMPLEMENTATION OF THIS SECTION, TAKING INTO CONSIDERATION THE
24 COMMISSION'S ELECTRIC RESOURCE PLANNING PROCESS.

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

27 **39-3-118.7. Community solar garden - partial business**

1 **personal property tax exemption - definitions.** (2) For property tax
2 years commencing on and after January 1, 2015, but before January 1,
3 ~~2021~~ **2027**, there is exempt from the levy and collection of property tax
4 the percentage of alternating current electricity capacity of a community
5 solar garden that is attributed to residential or governmental subscribers,
6 or to subscribers that are organizations that have been granted property
7 tax exemptions pursuant to sections 39-3-106 to 39-3-113.5.

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

10 **SECTION 4. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.