

HB26-1326

## HOUSE FLOOR AMENDMENT

Second Reading BY REPRESENTATIVES Duran and Willford

1 Amend printed bill, page 8, after line 27 insert:

2 "SECTION 8. In Colorado Revised Statutes, **repeal and reenact,**  
3 **with amendments,** 40-6.5-105 as follows:

4 **40-6.5-105. Intervenor compensation - procedures - rules -**  
5 **legislative declaration - definitions.**

6 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

7 (a) INTERVENOR PARTICIPATION IN COMMISSION PROCEEDINGS  
8 OFTEN REQUIRES LEGAL, TECHNICAL, AND EXPERT RESOURCES;

9 (b) THE GENERAL ASSEMBLY HAS PREVIOUSLY AUTHORIZED  
10 INTERVENOR COMPENSATION, BUT THE STATUTE LACKS SUFFICIENT  
11 CLARITY REGARDING ELIGIBILITY, STANDARDS, AND PROCEDURES FOR  
12 INTERVENOR COMPENSATION, WHICH LACK OF CLARITY HAS RESULTED IN  
13 THE AUTHORITY GOING UNUSED;

14 (c) OTHER JURISDICTIONS, INCLUDING CALIFORNIA, HAVE  
15 SUCCESSFULLY IMPLEMENTED INTERVENOR COMPENSATION PROGRAMS  
16 THAT IMPROVE DECISION-MAKING AND PUBLIC PARTICIPATION; AND

17 (d) CLARIFYING COLORADO LAW REGARDING INTERVENOR  
18 COMPENSATION WILL PROMOTE MEANINGFUL PARTICIPATION, IMPROVE  
19 THE EVIDENTIARY RECORD, AND SUPPORT EQUITABLE ACCESS TO  
20 COMMISSION PROCEEDINGS.

21 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
22 REQUIRES:

23 (a) "EXPERT WITNESS FEES" MEANS RECORDED OR BILLED COSTS  
24 THAT AN INTERVENOR INCURS FOR AN EXPERT WITNESS.

25 (b) "INTERVENOR" MEANS A PARTY, OTHER THAN A PUBLIC UTILITY  
26 OR STATE OR LOCAL GOVERNMENT AGENCY, WHOSE MOTION FOR  
27 PERMISSION TO INTERVENE HAS BEEN GRANTED BY THE COMMISSION.

28 (c) "MATERIAL ASSISTANCE" MEANS THAT AN INTERVENOR'S  
29 TESTIMONY OR PARTICIPATION IN A COMMISSION PROCEEDING HAS:

30 (I) CONTRIBUTED TO THE DEVELOPMENT OF A MORE COMPLETE  
31 ADMINISTRATIVE RECORD IN THE PROCEEDING;

32 (II) ASSISTED THE COMMISSION IN ITS EVALUATION OF THE ISSUES  
33 PRESENTED IN THE PROCEEDING; OR

34 (III) CONTRIBUTED TO A MORE COMPLETE RECORD OR  
35 UNDERSTANDING OF IMPACTS ON RATEPAYERS, INCOME-QUALIFIED  
36 CUSTOMERS, OR DISPROPORTIONATELY IMPACTED COMMUNITIES.

37 (d) "REASONABLE COSTS" INCLUDES:

38 (I) ATTORNEY FEES;

39 (II) EXPERT WITNESS FEES; AND

40 (III) OTHER REASONABLE OUT-OF-POCKET EXPENSES THAT AN

1 INTERVENOR DIRECTLY INCURS.  
2 (e) "SUBSTANTIAL CONTRIBUTION" MEANS THAT, IN THE  
3 COMMISSION'S JUDGMENT, AN INTERVENOR, THROUGH THEIR  
4 PARTICIPATION IN A COMMISSION PROCEEDING, HAS PROVIDED MATERIAL  
5 ASSISTANCE TO THE COMMISSION IN THE DEVELOPMENT OF THE  
6 ADMINISTRATIVE RECORD BY PROVIDING ANY OF THE FOLLOWING:  
7 (I) FACTUAL CONTENTIONS;  
8 (II) LEGAL CONTENTIONS; OR  
9 (III) POLICY OR PROCEDURAL RECOMMENDATIONS.  
10 (3) (a) THE COMMISSION MAY AWARD AN INTERVENOR  
11 COMPENSATION RELATED TO THE INTERVENOR'S PARTICIPATION IN A  
12 PROCEEDING IF:  
13 (I) THE INTERVENOR MAKES A UNIQUE SUBSTANTIAL  
14 CONTRIBUTION; AND  
15 (II) THE INTERVENOR'S COSTS INCURRED TO PARTICIPATE IN THE  
16 PROCEEDING ARE REASONABLE.  
17 (b) AN INTERVENOR THAT MAKES A SUBSTANTIAL CONTRIBUTION  
18 MAY RECEIVE COMPENSATION FOR ALL REASONABLE COSTS RELATED TO  
19 THE SUBSTANTIAL CONTRIBUTION, EVEN IF THE COMMISSION DOES NOT  
20 EXPRESSLY CITE OR REFERENCE THE INTERVENOR IN THE COMMISSION'S  
21 FINAL ORDER OR DECISION ON THE MATTER.  
22 (c) AN INTERVENOR IS NOT REQUIRED TO DEMONSTRATE THAT THE  
23 INTERVENOR'S PARTICIPATION IN A PROCEEDING ADDRESSED ISSUES THAT  
24 WERE NOT ADDRESSED BY THE OFFICE OF THE UTILITY CONSUMER  
25 ADVOCATE.  
26 (4) (a) THE COMMISSION MAY ADOPT RULES TO IMPLEMENT THIS  
27 SECTION.  
28 (b) IF THE COMMISSION ADOPTS RULES PURSUANT TO SUBSECTION  
29 (4)(a) OF THIS SECTION, THE RULES MUST INCLUDE:  
30 (I) THE PROCESS BY WHICH AN INTERVENOR PETITIONS THE  
31 COMMISSION FOR PAYMENT OF REASONABLE COSTS;  
32 (II) GUIDELINES FOR DETERMINING REASONABLE COSTS FOR  
33 REIMBURSEMENT; AND  
34 (III) GUIDELINES FOR DETERMINING MATERIAL ASSISTANCE.  
35 (5) THE IMPLEMENTATION OF THIS SECTION, INCLUDING ANY  
36 AWARD OF INTERVENOR COMPENSATION, IS SUBJECT TO AVAILABLE  
37 APPROPRIATIONS."

38 Renumber succeeding sections accordingly.

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