HB1326_L.093

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

HB26-1326 be amended as follows:

Amend reengrossed bill, page 22, after line 21 insert:

"**SECTION 19.** In Colorado Revised Statutes, 40-2-123, **add** (6) and (7) as follows:

40-2-123. Energy technologies - consideration by commission - incentives - demonstration projects - commission may require specific customer-facing programs - legislative declaration - definitions.

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

(I) SINCE 2007, COLORADO HAS ENACTED SEVERAL STATUTES THAT DIRECT COMMISSION-REGULATED INVESTOR-OWNED UTILITIES TO IMPLEMENT CUSTOMER-FACING PROGRAMS AIMED AT REDUCING ENERGY BILLS, REDUCING ENERGY CONSUMPTION, OR SUPPORTING THE TRANSITION TO LOWER- OR ZERO-CARBON-EMITTING TECHNOLOGIES;

(II) SUCH CUSTOMER-FACING PROGRAMS INCLUDE DEMAND-SIDE MANAGEMENT, BENEFICIAL ELECTRIFICATION, CLEAN HEAT PLANS, AND TRANSPORTATION ELECTRIFICATION;

(III) FOR MANY OF THESE PROGRAMS, UTILITIES MAY LACK A NATURAL INCENTIVE TO TAKE CERTAIN ACTIONS OR IMPLEMENT THESE PROGRAMS EFFECTIVELY. ADDITIONALLY, DUE TO STAFFING OR ECONOMIES OF SCALE, SMALLER UTILITIES MAY LACK THE ABILITY TO OPERATE SUCH PROGRAMS AT A REASONABLE COST TO RATEPAYERS.

(IV) CERTAIN RATEPAYER AFFORDABILITY PROGRAMS ARE IMPLEMENTED BY A THIRD PARTY THAT WAS NOT SELECTED THROUGH A COMPETITIVE PROCESS, AND THERE IS LIMITED OVERSIGHT OF THE THIRD PARTY'S USE OF RATEPAYER DOLLARS;

(V) ESTABLISHED STATE ENTERPRISES, SUCH AS THE BUILDING DECARBONIZATION ENTERPRISE CREATED IN SECTION 24-38.5-125, MAY PROVIDE AN ALTERNATIVE OPTION FOR ADMINISTERING COMPETITIVE SOLICITATIONS FOR THIRD-PARTY PROGRAM ADMINISTRATION; AND

(VI) THEREFORE, THE COMMISSION SHOULD BE AUTHORIZED TO REQUIRE COMMISSION-REGULATED INVESTOR-OWNED UTILITIES TO ENGAGE ONE OR MORE THIRD PARTIES TO ADMINISTER SPECIFIC CUSTOMER-FACING PROGRAMS IF THE COMMISSION DEEMS THE USE OF ONE OR MORE THIRD PARTIES PRUDENT AND IN THE BEST INTEREST OF RATEPAYERS. IN ADDITION, THE COMMISSION SHOULD BE AUTHORIZED TO REQUIRE THE USE OF A COMPETITIVE BIDDING PROCESS TO PROCURE THE SERVICES OF A THIRD-PARTY ADMINISTRATOR.

(b) IN AN ADJUDICATORY PROCEEDING, THE COMMISSION MAY REQUIRE A COMMISSION-REGULATED INVESTOR-OWNED UTILITY TO ENGAGE ONE OR MORE THIRD PARTIES TO ADMINISTER SPECIFIC

CUSTOMER-FACING PROGRAMS IF THE COMMISSION DEEMS THE USE OF ONE OR MORE THIRD PARTIES PRUDENT AND IN THE BEST INTEREST OF RATEPAYERS. THE COMMISSION MAY REQUIRE A COMPETITIVE BIDDING PROCESS TO PROCURE THE SERVICES OF A THIRD-PARTY ADMINISTRATOR.

(c) AS USED IN THIS SUBSECTION (6), "CUSTOMER-FACING PROGRAM" MEANS A PROGRAM AIMED AT REDUCING ENERGY BILLS, REDUCING ENERGY CONSUMPTION, OR SUPPORTING THE TRANSITION TO LOWER- OR ZERO-CARBON-EMITTING TECHNOLOGIES.

(7) (a) A COMMISSION-REGULATED INVESTOR-OWNED UTILITY MAY ENTER INTO A THIRD-PARTY AGREEMENT TO FACILITATE CUSTOMER-FACING PROGRAMS, SUBJECT TO COMMISSION APPROVAL. THE COMMISSION MAY DIRECT A COMMISSION-REGULATED INVESTOR-OWNED UTILITY TO PROPOSE TO THE COMMISSION THE USE OF THIRD-PARTY ADMINISTRATION FOR CUSTOMER-FACING PROGRAMS.

(b) IN A COMMISSION-REGULATED INVESTOR-OWNED UTILITY'S PROPOSAL TO UTILIZE THIRD-PARTY ADMINISTRATION OF A CUSTOMER-FACING PROGRAM, THE UTILITY SHALL EXPLAIN TO THE COMMISSION HOW THE UTILITY CONSIDERED THE FOLLOWING IN RELATION TO THE CUSTOMER-FACING PROGRAM:

(I) THE POTENTIAL FOR PROGRAM SUCCESS BASED ON AN ASSESSMENT OF SIMILAR ADMINISTRATION STRUCTURES THAT OTHER UTILITIES USE FOR SIMILAR CUSTOMER-FACING PROGRAMS;

(II) THE ADMINISTRATIVE COST RATIO OF ADMINISTERING REBATES VERSUS THE INCENTIVES PAID OUT AS PART OF THE PROGRAM;

(III) THE TIME REQUIRED TO FULFILL CUSTOMER REBATE REQUESTS; AND

(IV) PRIOR PROGRAM PERFORMANCE UNDER A UTILITY-LED MODEL.

(c) IN AN APPLICATION TO THE COMMISSION TO ENTER INTO A THIRD-PARTY AGREEMENT TO FACILITATE CUSTOMER-FACING PROGRAMS, THE UTILITY MAY NOT:

(I) FORCE A LAYOFF OF, OR UNILATERALLY CHANGE THE TERMS OF EMPLOYMENT FOR, THE UTILITY EMPLOYEES WHO, IN WHOLE OR IN PART, PERFORM THE ADMINISTRATIVE OR SERVICE FUNCTIONS FOR THE SPECIFIC PROGRAM, SUBJECT TO A THIRD-PARTY AGREEMENT, AND WHO ARE COVERED BY A COLLECTIVE BARGAINING AGREEMENT UNLESS THE UTILITY AND THE LABOR UNION REPRESENTING THE EMPLOYEES COME TO AN AGREEMENT TO REASSIGN THE EMPLOYEES TO OTHER POSITIONS WITHIN THE UTILITY AT COMPARABLE PAY AND BENEFITS AS PER THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT AND ANY RELATED COMPANY POLICIES; AND

(II) PROPOSE TO ENTER INTO ANY THIRD-PARTY ADMINISTRATOR AGREEMENTS THAT CANCEL OR MODIFY AGREEMENTS WITH

CONSTRUCTION OR UTILITY CONSTRUCTION CONTRACTORS WHO ARE UNDER A CURRENT CONTRACT TO PERFORM WORK DIRECTLY FOR THE UTILITY ON A DEMAND-SIDE MANAGEMENT, BENEFICIAL ELECTRIFICATION, CLEAN HEAT, OR TRANSPORTATION ELECTRIFICATION CUSTOMER-FACING PROGRAM. THE CONTRACTS SHALL REMAIN IN FORCE EVEN IF A THIRD-PARTY ADMINISTRATOR IS CONTRACTED TO ADMINISTER THE CUSTOMER-FACING PROGRAM. FUTURE CONSIDERATIONS AS TO WHETHER TO EXTEND OR RENEW THE CONSTRUCTION OR UTILITY CONSTRUCTION CONTRACTORS' AGREEMENTS CAN REMAIN WITH THE UTILITY, AND THE UTILITY CAN REMAIN THE CLIENT OF RECORD FOR THE CONSTRUCTION OR UTILITY CONSTRUCTION CONTRACTORS. PROGRAMS THAT DIRECT A RESIDENTIAL UTILITY CUSTOMER TO ENGAGE A CONTRACTOR DIRECTLY ARE EXEMPT FROM THIS SUBSECTION (7)(c)(II).

(d) SUBJECT TO COMMISSION APPROVAL BASED ON A DEMONSTRATION OF THE FACTORS SET FORTH IN SUBSECTION (7)(b) OF THIS SECTION, A COMMISSION-REGULATED INVESTOR-OWNED UTILITY SHALL UTILIZE THIRD-PARTY ADMINISTRATION FOR ANY CUSTOMER-FACING PROGRAM.

(e) A THIRD-PARTY ADMINISTRATOR OF A CUSTOMER-FACING PROGRAM IS DIRECTLY RESPONSIBLE FOR COMPLIANCE WITH, AND SHALL ADHERE TO APPLICABLE LABOR STANDARDS FOR, CONSTRUCTION- OR UTILITY-CONSTRUCTION-SPECIFIC WORK THAT WOULD OTHERWISE BE APPLICABLE TO THE UTILITY UNDER COLORADO LAW.".

Renumber succeeding sections accordingly.

Page 33, lines 24 and 25, strike "**repeal** (7)(a); and".

Page 34, strike lines 1 through 8.

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