

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0525.01 Jacob Bennington x2371

SENATE BILL 26-082

SENATE SPONSORSHIP

Pelton B.,

HOUSE SPONSORSHIP

(None),

Senate Committees

Transportation & Energy

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROCESS BY WHICH A LOCAL GOVERNMENT**
102 **CONTROLS THE DEVELOPMENT OF RENEWABLE ENERGY**
103 **PROJECTS, AND, IN CONNECTION THEREWITH, AUTHORIZING A**
104 **LOCAL GOVERNMENT TO IMPLEMENT AN OPTIONAL TWO-TIER**
105 **APPLICATION FEE PROGRAM AND A SUCCESS FEE.**

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>.)

A renewable energy project developer (facility owner) that intends to undertake a project to build a renewable energy facility (renewable

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

energy project) may currently submit an application for land use approval from the renewable energy project to a local government. However, current law does not specify what process a local government may use to charge fees or set a timeline for the local government to make a final decision regarding land use approval for the renewable energy project. The bill specifies that control over the specifics of the application process rests with the local government. The local government may establish fees for an application for a renewable energy project and may offer two independent tracks for the application based on the fee the facility owner pays. The standard track allows a facility owner to pay a lower fee, but does not guarantee a specific timeline for the local government to issue a final decision on the application. The expedited track allows a facility owner to pay an additional fee, with an agreement that if the local government takes longer than 120 days, minus any permitted tolling periods, a percentage of the higher fee will be refunded.

The bill gives local governments authority to contract with third-party technical reviewers to review the application for a final decision. The bill also requires a facility owner to pay a success fee to the local government upon final approval of the project, based on the amount of time between receipt of the application and when the project is approved, to be used by the local government for expenses related to regulating renewable energy facilities and maintaining local roads impacted by facility construction.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 29-20-406** as
3 follows:

4 **29-20-406. Renewable energy project fees - local authority -**
5 **fast-track program - refund - reporting - legislative declaration -**
6 **definitions.**

7 (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
8 THAT:

9 (I) COLORADO HAS LONG RECOGNIZED THAT LAND USE IS A LOCAL
10 FUNCTION, AND COUNTIES ARE BEST POSITIONED TO BALANCE ENERGY
11 DEVELOPMENT WITH COMMUNITY IMPACTS; AND

12 (II) FACILITIES CAN CREATE SIGNIFICANT LOCAL IMPACTS ON

1 ROADS, EMERGENCY SERVICES, AND THE ENVIRONMENT THAT ARE MOST
2 DIRECTLY BORNE BY LOCAL GOVERNMENTS AND RESIDENTS.

3 (b) THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

4 (I) REAFFIRM THAT LOCAL GOVERNMENTS RETAIN AUTHORITY TO
5 APPROVE, CONDITION, OR DENY PROJECTS THROUGH LOCAL LAND USE
6 PROCESSES;

7 (II) CREATE A VOLUNTARY STRUCTURE THAT INCENTIVIZES
8 FASTER, PREDICTABLE LOCAL PERMITTING BY ALLOWING LOCAL
9 GOVERNMENTS TO RETAIN HIGHER FACILITY OWNER-PAID FEES WHEN
10 STATUTORY TIMELINES ARE MET; AND

11 (III) ENSURE PROJECTS CONTRIBUTE FAIRLY AND PREDICTABLY TO
12 LOCAL FISCAL IMPACTS THROUGH A SUCCESS FEE CHARGED ON FINAL
13 APPROVAL OF THE PROJECT.

14 (2) (a) THE POWER AND AUTHORITY GRANTED BY THIS SECTION
15 DOES NOT LIMIT ANY POWER OR AUTHORITY PRESENTLY EXERCISED BY A
16 LOCAL GOVERNMENT OR PREVIOUSLY GRANTED TO A LOCAL
17 GOVERNMENT. EACH LOCAL GOVERNMENT WITHIN ITS RESPECTIVE
18 JURISDICTION HAS THE AUTHORITY TO:

19 (I) DEVELOP A UNIFORM ELECTRONIC APPLICATION AND
20 PERMITTING SYSTEM FOR FACILITY OWNERS APPLYING FOR LAND USE
21 APPROVAL TO DEVELOP A RENEWABLE ENERGY PROJECT;

22 (II) CREATE A STANDARD PERMIT APPLICATION PROCESS, AS WELL
23 AS ESTABLISH AND COLLECT A STANDARD FEE FROM FACILITY OWNERS;

24 (III) CREATE AN EXPEDITED PERMIT APPLICATION PROCESS, AS
25 WELL AS ESTABLISH AND COLLECT AN EXPEDITED FEE FROM FACILITY
26 OWNERS; AND

27 (IV) ESTABLISH AND COLLECT A SUCCESS FEE FROM FACILITY

1 OWNERS AFTER A LOCAL GOVERNMENT APPROVES A RENEWABLE ENERGY
2 PROJECT.

3 (b) A PERMITTING AND APPLICATION SYSTEM DEVELOPED BY A
4 LOCAL GOVERNMENT PURSUANT TO THIS SUBSECTION (2) MUST COMPLY
5 WITH SUBSECTIONS (3) THROUGH (7) OF THIS SECTION.

6 (3) A FACILITY OWNER THAT INTENDS TO DEVELOP A RENEWABLE
7 ENERGY PROJECT MAY SUBMIT EITHER A STANDARD PERMIT APPLICATION
8 OR, IF ESTABLISHED BY THE LOCAL GOVERNMENT, AN EXPEDITED PERMIT
9 APPLICATION TO THE LOCAL GOVERNMENT IN ACCORDANCE WITH THE
10 PROCEDURES DEVELOPED BY THE LOCAL GOVERNMENT PURSUANT TO
11 SUBSECTION (2) OF THIS SECTION.

12 (4) (a) FOR EXPEDITED PERMIT APPLICATIONS RECEIVED BY THE
13 LOCAL GOVERNMENT ON OR AFTER JANUARY 1, 2027, EXCEPT AS
14 OTHERWISE PROVIDED IN THIS SUBSECTION (4), THE LOCAL GOVERNMENT
15 SHALL ISSUE A DETERMINATION OF WHETHER THE APPLICATION IS
16 COMPLETE WITHIN TWENTY DAYS AFTER RECEIVING THE APPLICATION. THE
17 LOCAL GOVERNMENT SHALL NOTIFY THE FACILITY OWNER IN WRITING
18 WHETHER THE APPLICATION IS COMPLETE.

19 (b) A DETERMINATION THAT AN APPLICATION IS NOT COMPLETE
20 MUST INCLUDE A CONSOLIDATED DEFICIENCY NOTICE WITH A LIST OF ALL
21 MISSING OR INCOMPLETE ITEMS THAT THE FACILITY OWNER MUST CORRECT
22 FOR THE APPLICATION TO BE DEEMED COMPLETE.

23 (c) (I) AN APPLICATION SUBMITTED TO A LOCAL GOVERNMENT
24 PURSUANT TO SUBSECTION (3) OF THIS SECTION IS DEEMED APPROVED BY
25 THE LOCAL GOVERNMENT IF THE LOCAL GOVERNMENT HAS NOT, WITHIN
26 TWENTY DAYS AFTER RECEIPT OF THE APPLICATION, NOTIFIED THE
27 FACILITY OWNER PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION

1 WHETHER THE APPLICATION IS COMPLETE.

2 (II) IF THE LOCAL GOVERNMENT DETERMINES AN APPLICATION IS
3 NOT COMPLETE, THE LOCAL GOVERNMENT MAY HAVE AN ADDITIONAL
4 THIRTY DAYS AFTER PROVIDING INITIAL NOTICE THAT THE APPLICATION IS
5 INCOMPLETE TO PROVIDE THE CONSOLIDATED DEFICIENCY NOTICE.

6 (5) IF AN APPLICATION IS DEEMED INCOMPLETE, THE FACILITY
7 OWNER HAS THIRTY DAYS FROM THE DATE THAT THE LOCAL GOVERNMENT
8 PROVIDED THE CONSOLIDATED DEFICIENCY NOTICE TO CURE ANY
9 DEFICIENCIES IDENTIFIED IN THE CONSOLIDATED DEFICIENCY NOTICE OR
10 TO APPEAL THE DETERMINATION.

11 (6) (a) THE EXPEDITED PERMIT FEE CONSISTS OF THE STANDARD
12 FEE, AS WELL AS AN ADDITIONAL CHARGE THAT THE LOCAL GOVERNMENT
13 SHALL REFUND TO THE FACILITY OWNER AS FOLLOWS:

14 (I) IF THE LOCAL GOVERNMENT ISSUES A FINAL DECISION WITHIN
15 ONE HUNDRED TWENTY DAYS OR FEWER AFTER RECEIPT OF THE
16 APPLICATION, ZERO PERCENT OF THE ADDITIONAL CHARGE IS REFUNDED TO
17 THE FACILITY OWNER;

18 (II) IF THE LOCAL GOVERNMENT ISSUES A FINAL DECISION
19 BETWEEN ONE HUNDRED TWENTY-ONE DAYS AND ONE HUNDRED EIGHTY
20 DAYS AFTER RECEIPT OF THE APPLICATION, FIFTY PERCENT OF THE
21 ADDITIONAL CHARGE IS REFUNDED TO THE FACILITY OWNER;

22 (III) IF THE LOCAL GOVERNMENT ISSUES A FINAL DECISION
23 BETWEEN ONE HUNDRED EIGHTY-ONE DAYS AND TWO HUNDRED FORTY
24 DAYS AFTER RECEIPT OF THE APPLICATION, SEVENTY-FIVE PERCENT OF THE
25 ADDITIONAL CHARGE IS REFUNDED TO THE FACILITY OWNER; OR

26 (IV) IF THE LOCAL GOVERNMENT ISSUES A FINAL DECISION MORE
27 THAN TWO HUNDRED FORTY DAYS AFTER RECEIPT OF THE APPLICATION,

1 ONE HUNDRED PERCENT OF THE ADDITIONAL CHARGE IS REFUNDED TO THE
2 FACILITY OWNER.

3 (b) IN DETERMINING THE AMOUNT OF THE ADDITIONAL CHARGE
4 FOR AN EXPEDITED APPLICATION THAT A LOCAL GOVERNMENT MUST
5 REFUND PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION, THE LOCAL
6 GOVERNMENT SHALL NOT INCLUDE ANY PORTION OF THE THIRTY-DAY
7 CURE PERIOD IN THE CALCULATION OF THE TIME IT TAKES FOR THE LOCAL
8 GOVERNMENT TO ISSUE A FINAL DECISION.

9 (7) (a) IF A FACILITY OWNER HAS SUBMITTED AN EXPEDITED
10 PERMIT APPLICATION, THE LOCAL GOVERNMENT SHALL SELECT AND HIRE
11 A QUALIFIED AND INDEPENDENT NONGOVERNMENTAL CONTRACTOR
12 UNDER THE DIRECTION OF THE LOCAL GOVERNMENT TO PROVIDE THE
13 LOCAL GOVERNMENT WITH TECHNICAL ASSISTANCE IN REVIEWING THE
14 APPLICATION.

15 (b) AN INDEPENDENT NONGOVERNMENTAL CONTRACTOR THAT
16 PROVIDES TECHNICAL ASSISTANCE PURSUANT TO THIS SUBSECTION (7)
17 MAY ASSIST THE LOCAL GOVERNMENT WITH SOME OR ALL OF THE
18 FOLLOWING, AT THE LOCAL GOVERNMENT'S DISCRETION:

19 (I) REVIEWING THE FACILITY OWNER'S APPLICATION AND
20 PROPOSAL;

21 (II) PREPARING THE LOCAL GOVERNMENT'S COMPLETENESS
22 DETERMINATION;

23 (III) PREPARING THE LOCAL GOVERNMENT'S CONSOLIDATED
24 DEFICIENCY NOTICE;

25 (IV) PROVIDING RESPONSES TO A FACILITY OWNER'S APPEAL OF
26 ANY ITEM IN A CONSOLIDATED DEFICIENCY NOTICE; AND

27 (V) PREPARING A FINAL DECISION ON THE FACILITY OWNER'S

1 APPLICATION.

2 (c) THE FACILITY OWNER SHALL BEAR THE INDEPENDENT
3 NONGOVERNMENTAL CONTRACTOR'S COSTS FOR ANY TECHNICAL
4 ASSISTANCE PROVIDED PURSUANT TO THIS SECTION AND SHALL REMIT
5 PAYMENT FOR THE COSTS TO THE LOCAL GOVERNMENT, WHICH SHALL PAY
6 THE CONTRACTOR. THE LOCAL GOVERNMENT MAY CHARGE THE FACILITY
7 OWNER AN ADDITIONAL FEE IN AN AMOUNT NOT TO EXCEED TEN PERCENT
8 OF THE COST OF THE CONTRACT WITH THE CONTRACTOR FOR CONTRACT
9 ADMINISTRATION, TECHNICAL REVIEW, AND ADDITIONAL PERMIT
10 PROCESSING.

11 (d) (I) THE LOCAL GOVERNMENT, IN ITS SOLE DISCRETION, SHALL
12 PROVIDE OVERSIGHT TO ENSURE THAT INDEPENDENT NONGOVERNMENTAL
13 CONTRACTORS PROVIDE TECHNICAL ASSISTANCE IN ACCORDANCE WITH
14 THE TERMS OF THEIR CONTRACTS. THE LOCAL GOVERNMENT MAY REQUIRE
15 A CONTRACTOR'S TECHNICAL ASSISTANCE TO CONFORM TO ALL LAWS AND
16 ORDINANCES APPLICABLE TO THE APPLICATION IN QUESTION.

17 (II) THE LOCAL GOVERNMENT MAY DEEM SOME OR ALL OF THE
18 CONTRACTOR'S TECHNICAL ASSISTANCE AS UNACCEPTABLE AND MAY
19 REJECT, REQUIRE CORRECTION OF, OR DENY APPROVAL FOR SUCH
20 ASSISTANCE.

21 (8)(a) ANY FACILITY OWNER WHOSE RENEWABLE ENERGY PROJECT
22 IS APPROVED PURSUANT TO THIS SECTION SHALL PAY A SUCCESS FEE IN AN
23 AMOUNT SET BY THE LOCAL GOVERNMENT UPON FINAL APPROVAL OF THE
24 PROJECT.

25 (b) A FACILITY OWNER WHOSE RENEWABLE ENERGY PROJECT IS
26 APPROVED PURSUANT TO A LOCAL GOVERNMENT'S EXPEDITED PERMIT
27 APPLICATION SHALL PAY AN ADDITIONAL SUCCESS FEE, IN AN AMOUNT SET

1 BY THE LOCAL GOVERNMENT, BASED ON THE AMOUNT OF TIME BETWEEN
2 THE LOCAL GOVERNMENT'S RECEIPT OF THE APPLICATION AND ITS
3 ISSUANCE OF FINAL APPROVAL OF THE PROJECT. THE PERCENTAGE OF THE
4 ADDITIONAL SUCCESS FEE TO BE PAID BY THE FACILITY OWNER IS
5 DETERMINED AS FOLLOWS:

6 (I) IF THE LOCAL GOVERNMENT ISSUES FINAL APPROVAL WITHIN
7 ONE HUNDRED TWENTY DAYS OR FEWER AFTER RECEIPT OF THE
8 APPLICATION, ONE HUNDRED PERCENT OF THE ADDITIONAL SUCCESS FEE;

9 (II) IF THE LOCAL GOVERNMENT ISSUES FINAL APPROVAL BETWEEN
10 ONE HUNDRED TWENTY-ONE DAYS AND ONE HUNDRED EIGHTY DAYS AFTER
11 RECEIPT OF THE APPLICATION, FIFTY PERCENT OF THE ADDITIONAL SUCCESS
12 FEE;

13 (III) IF THE LOCAL GOVERNMENT ISSUES FINAL APPROVAL BETWEEN
14 ONE HUNDRED EIGHTY-ONE DAYS AND TWO HUNDRED FORTY DAYS AFTER
15 RECEIPT OF THE APPLICATION, TWENTY-FIVE PERCENT OF THE ADDITIONAL
16 SUCCESS FEE; OR

17 (IV) IF THE LOCAL GOVERNMENT ISSUES A FINAL DECISION MORE
18 THAN TWO HUNDRED FORTY DAYS AFTER RECEIPT OF THE APPLICATION,
19 THE LOCAL GOVERNMENT SHALL ONLY CHARGE THE SUCCESS FEE FOR A
20 STANDARD PERMIT APPLICATION APPROVAL PURSUANT TO SUBSECTION
21 (8)(a) OF THIS SECTION.

22 (c) A LOCAL GOVERNMENT SHALL USE THE MONEY COLLECTED
23 FROM THE SUCCESS FEE ONLY FOR FUNDING:

24 (I) LOCAL GOVERNMENT STAFF RESPONSIBLE FOR PERMITTING AND
25 ENFORCEMENT OF LOCAL RENEWABLE ENERGY LAWS AND ORDINANCES;

26 (II) INSPECTION AND COMPLIANCE MONITORING IN CONNECTION
27 WITH RENEWABLE ENERGY PROJECTS;

1 (III) MITIGATION AND REPAIR TO LOCAL ROADS IMPACTED BY
2 HAULING OF HEAVY MACHINERY FOR RENEWABLE ENERGY PROJECTS;

3 (IV) EMERGENCY MANAGEMENT AND FIRE READINESS RELATED TO
4 THE RENEWABLE ENERGY FACILITY; AND

5 (V) OVERSIGHT OF ANY DECOMMISSIONING OF A RENEWABLE
6 ENERGY FACILITY.

7 **SECTION 2. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2026 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.