

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0995.01 Jennifer Berman x3286

HOUSE BILL 26-1420

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HOUSE SPONSORSHIP

Paschal and Richardson,

SENATE SPONSORSHIP

Kolker and Pelton R.,

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House Committees

Transportation, Housing & Local Government

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING CHANGES TO THE APPROVAL PROCESS FOR  
102 LIGHT-MITIGATING TECHNOLOGY THAT IS REQUIRED TO BE  
103 INSTALLED AT CERTAIN WIND-POWERED ENERGY GENERATION  
104 FACILITIES.

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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>.)*

In 2022, the general assembly enacted Senate Bill 22-110 to require an owner or operator of a new wind-powered energy generation facility (facility) to install light-mitigating technology designed to detect

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.

aircraft (technology) at the facility and to obtain federal aviation administration (FAA) approval before installing the technology. An owner or operator of a facility can request from the governing body of the local government in which the facility is located an extension of up to 24 months to install the technology.

The bill requires the owner or operator of a facility to also obtain federal communications commission (FCC) approval for installation of the technology and requires that a governing body of a local government grant an owner or operator of a facility an extension of time to install the technology if FAA, FCC, or other federal agency approval is delayed. The bill also requires that an extension of time granted by the governing body of a local government is at least 24 months in duration.

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

2           **SECTION 1.** In Colorado Revised Statutes, 38-30.7-106, **amend**  
3 (1) and (2); and **add** (5)(c.5) as follows:

4           **38-30.7-106. Wind-powered energy generation facilities**  
5 **inclusion of light-mitigating technology - requirement - enforcement**  
6 **- definitions.**

7           (1) (a) Subject to subsection (1)(b) of this section and subject to  
8 approval from the FAA, THE FCC, AND ANY OTHER APPLICABLE FEDERAL  
9 AGENCY, for the installation of approved light-mitigating technology, for  
10 any new wind-powered energy generation facility that is subject to local  
11 government land-use permitting requirements pursuant to section  
12 29-20-108 or is owned by an independent power producer, and for which  
13 the owner or operator of the new facility begins vertical construction of  
14 the first wind turbine included within the facility on or after April 1,  
15 2022, the owner or operator shall install light-mitigating technology at the  
16 new facility.

17           (b) The owner or operator of a new wind-powered energy  
18 generation facility subject to subsection (1)(a) of this section, within six  
19 months after the facility receives a determination of no hazard from the

1 FAA, shall:

2 (I) Apply to the FAA, THE FCC, AND any other applicable federal  
3 agency ~~or both~~, for the installation of approved light-mitigating  
4 technology; and

5 (II) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION,  
6 within twenty-four months after receiving FINAL approval from the FAA,  
7 THE FCC, AND ANY OTHER APPLICABLE FEDERAL AGENCY, in accordance  
8 with subsection (1)(b)(I) of this section, and subject to the availability of  
9 light-mitigating technology from the manufacturer or supplier, install,  
10 test, and commence operation ~~consistent with FAA requirements or other~~  
11 ~~applicable federal agency requirements~~, of the light-mitigating technology  
12 at the new facility, CONSISTENT WITH REQUIREMENTS OF THE FAA, THE  
13 FCC, AND ANY OTHER APPLICABLE FEDERAL AGENCY.

14 (2) (a) The owner or operator of a wind-powered energy  
15 generation facility may seek an extension of time from the governing  
16 body of the local government IN WHICH THE WIND-POWERED ENERGY  
17 GENERATION FACILITY IS LOCATED OR WILL BE LOCATED to comply with  
18 subsection (1) of this section. AN EXTENSION OF TIME GRANTED UNDER  
19 THIS SUBSECTION (2)(a) MUST BE for a period of ~~up to~~ AT LEAST  
20 twenty-four months. THE GOVERNING BODY OF THE LOCAL GOVERNMENT  
21 MAY GRANT A LONGER EXTENSION AND MAY GRANT ADDITIONAL  
22 EXTENSIONS IF WARRANTED.

23 (b) The governing body of the local government shall grant the  
24 request FOR AN EXTENSION OF TIME if:

25 (I) The owner or operator can demonstrate that, despite the  
26 owner's or operator's exercise of commercially reasonable efforts, ~~the~~  
27 ~~availability of light-mitigating technology~~ THE OWNER'S OR OPERATOR'S

1 ABILITY TO COMPLY WITH SUBSECTION (1) OF THIS SECTION WITHIN THE  
2 TIME FRAME AFFORDED WAS constrained BY the ~~owner's or operator's~~  
3 ~~ability to comply with subsection (1) of this section in the time frame~~  
4 ~~afforded~~. AVAILABILITY OF LIGHT-MITIGATING TECHNOLOGY OR BY OTHER  
5 DOCUMENTED CIRCUMSTANCES OUTSIDE OF THE OWNER'S OR OPERATOR'S  
6 CONTROL; OR

7 (II) FINAL APPROVAL FROM THE FAA, THE FCC, OR ANY OTHER  
8 APPLICABLE FEDERAL AGENCY IS DELAYED.

9 (c) A board shall not impose any penalties against the owner or  
10 operator pursuant to subsection (3) of this section during the extension  
11 period granted.

12 (5) As used in this section, unless the context otherwise requires:

13 (c.5) "FCC" MEANS THE FEDERAL COMMUNICATIONS COMMISSION.

14 **SECTION 2. Applicability.** This act applies to applications and  
15 requests for extension of time that are pending on or after the effective  
16 date of this act.

17 **SECTION 3. Safety clause.** The general assembly finds,  
18 determines, and declares that this act is necessary for the immediate  
19 preservation of the public peace, health, or safety or for appropriations for  
20 the support and maintenance of the departments of the state and state  
21 institutions.