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HOUSE BILL 26-1420

BY REPRESENTATIVE(S) Paschal and Richardson, Barron, Caldwell, Clifford, Duran, Flanell, Jackson, Johnson, Keltie, McCormick, Smith, Story, Weinberg, Woog;
also SENATOR(S) Kolker and Pelton R., Coleman.

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

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

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

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

(1) (a) Subject to subsection (1)(b) of this section and subject to approval from the FAA, THE FCC, AND ANY OTHER APPLICABLE FEDERAL AGENCY, for the installation of approved light-mitigating technology, for any new wind-powered energy generation facility that is subject to local

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

government land-use permitting requirements pursuant to section 29-20-108 or is owned by an independent power producer, and for which the owner or operator of the new facility begins vertical construction of the first wind turbine included within the facility on or after April 1, 2022, the owner or operator shall install light-mitigating technology at the new facility.

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

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

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

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

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

(I) The owner or operator can demonstrate that, despite the owner's or operator's exercise of commercially reasonable efforts, ~~the availability of light-mitigating technology~~ THE OWNER'S OR OPERATOR'S ABILITY TO COMPLY WITH SUBSECTION (1) OF THIS SECTION WITHIN THE TIME FRAME

AFFORDED WAS constrained BY the ~~owner's or operator's ability to comply with subsection (1) of this section in the time frame afforded.~~ AVAILABILITY OF LIGHT-MITIGATING TECHNOLOGY OR BY OTHER DOCUMENTED CIRCUMSTANCES OUTSIDE OF THE OWNER'S OR OPERATOR'S CONTROL; OR

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

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

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

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

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

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

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SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO