

CHAPTER 290

PUBLIC UTILITIES

SENATE BILL 26-142

BY SENATOR(S) Ball and Kipp, Amabile, Benavidez, Bridges, Cutter, Daugherty, Exum, Jodeh, Lindstedt, Mullica, Roberts, Snyder, Coleman;
also REPRESENTATIVE(S) Joseph and Gonzalez R., Bacon, Duran, Goldstein, Jackson, Marshall, McCormick, Nguyen, Paschal, Phillips, Rutinel, Rydin, Smith, McCluskie.

AN ACT**CONCERNING THE DEVELOPMENT OF THERMAL ENERGY RESOURCES.**

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) In 2021, the general assembly enacted Senate Bill 21-264, requiring regulated gas utilities to develop clean heat plans to reduce greenhouse gas emissions;

(b) In 2023, the general assembly enacted House Bill 23-1252, which authorized thermal energy networks, integrated thermal energy into the clean heat standard, and required a large gas utility to propose pilot thermal energy network projects;

(c) The Colorado energy office has invested substantial public funds in geothermal and thermal energy network grants and tax credits, and communities across the state are pursuing neighborhood-scale alternatives to natural gas infrastructure;

(d) While existing law does not prohibit municipalities from operating thermal energy networks that include private participants and does not prohibit industrial facilities from selling recovered waste heat, the absence of express statutory authority for these activities imposes unnecessary soft costs on every entity that attempts to conduct those activities, including legal fees, financial risk premiums, and extended project timelines;

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.

(e) These soft costs are disproportionately burdensome for small and rural communities and prevent publicly funded thermal energy project operators from entering into contracts that make financial sense; and

(f) Geothermal energy and thermal energy networks have the potential to provide stable, predictable, and lower-cost energy for heating and cooling, and expanding access to geothermal and thermal energy resources can help reduce energy burdens for income-qualified households and improve energy affordability for Coloradans.

(2) Therefore, the general assembly declares that:

(a) It is the purpose of this act to reduce soft costs and legal ambiguity associated with thermal energy network deployment and industrial waste heat recovery by providing express statutory authority for these activities that otherwise lack clear legal pathways; and

(b) This act does not limit any authority that a local government already has under the local government's organic statute or other state law to provide thermal energy service; and

(c) This act does not create new state spending obligations or new regulatory mandates on existing or new regulatory bodies.

SECTION 2. In Colorado Revised Statutes, **add** 29-1-208 as follows:

29-1-208. Local government thermal energy aggregation - contracting authority - revenue bonds - private operators - definitions.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE CITY, TOWN, COUNTY, CITY AND COUNTY, OR SPECIAL DISTRICT.

(b) "PUBLIC UTILITIES COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101.

(c) "THERMAL ENERGY" HAS THE MEANING SET FORTH IN SECTION 40-3.2-108 (2)(r).

(d) "THERMAL ENERGY NETWORK" HAS THE MEANING SET FORTH IN SECTION 40-3.2-108 (2)(s).

(e) "THERMAL ENERGY SERVICE AGREEMENT" MEANS A CONTRACT BETWEEN A LOCAL GOVERNMENT AND ONE OR MORE OTHER PARTIES FOR THE PURCHASE, SALE, DELIVERY, OR CAPACITY RESERVATION OF THERMAL ENERGY OR THERMAL ENERGY NETWORK SERVICE.

(2)(a) A LOCAL GOVERNMENT MAY AGGREGATE THERMAL ENERGY DEMAND FOR BUILDINGS AND FACILITIES OWNED OR MANAGED BY THE LOCAL GOVERNMENT WITH DEMAND FROM OTHER ENTITIES, INCLUDING PRIVATE ENTITIES THAT ELECT TO PARTICIPATE IN THE THERMAL ENERGY NETWORK.

(b) A LOCAL GOVERNMENT THAT AGGREGATES THERMAL ENERGY DEMAND PURSUANT TO THIS SUBSECTION (2) IS NOT CONSIDERED A PUBLIC UTILITY OR A MUNICIPAL UTILITY AND IS NOT SUBJECT TO REGULATION BY THE PUBLIC UTILITIES COMMISSION.

(3) (a) A LOCAL GOVERNMENT MAY ENTER INTO THERMAL ENERGY SERVICE AGREEMENTS FOR A TERM NOT TO EXCEED TWENTY-FIVE YEARS, SUBJECT TO ANNUAL APPROPRIATION BY THE LOCAL GOVERNMENT.

(b) A LOCAL GOVERNMENT MAY ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH OTHER LOCAL GOVERNMENTS PURSUANT TO SECTION 29-1-203 FOR THE DEVELOPMENT, OPERATION, OR FINANCING OF A THERMAL ENERGY NETWORK.

(c) A LOCAL GOVERNMENT MAY ENTER INTO A CONTRACT WITH A PRIVATE ENTITY FOR THE DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, OR MANAGEMENT OF A THERMAL ENERGY NETWORK ON BEHALF OF THE LOCAL GOVERNMENT IF THE CONTRACT IS APPROVED BY THE GOVERNING BODY OF THE LOCAL GOVERNMENT.

(4) A LOCAL GOVERNMENT OR A PRIVATE ENTITY ON BEHALF OF A LOCAL GOVERNMENT, OTHER THAN A PRIVATE ENTITY THAT IS A UTILITY REGULATED BY THE PUBLIC UTILITIES COMMISSION OR AN AFFILIATE OF A PUBLIC UTILITY, AS DEFINED IN SECTION 40-3-104.3 (4)(b), THAT OPERATES, MAINTAINS, OR MANAGES A THERMAL ENERGY NETWORK IS NOT CONSIDERED A MUNICIPAL UTILITY OR A PUBLIC UTILITY, AS DEFINED IN SECTION 40-1-103, AND IS NOT SUBJECT TO REGULATION BY THE PUBLIC UTILITIES COMMISSION.

(5) (a) (I) IF A LOCAL GOVERNMENT IS OTHERWISE AUTHORIZED BY LAW TO ISSUE BONDS, THE LOCAL GOVERNMENT MAY ISSUE REVENUE BONDS, GENERAL OBLIGATION BONDS, OR OTHER FINANCING MECHANISMS AUTHORIZED BY LAW FOR THE PURPOSE OF FINANCING THE DESIGN, CONSTRUCTION, ACQUISITION, OR IMPROVEMENT OF THERMAL ENERGY NETWORK INFRASTRUCTURE, INCLUDING PIPES, INTERCONNECTIONS, HEAT EXCHANGERS, GROUND-SOURCE LOOPS, CUSTOMER CONNECTIONS, AND OTHER INFRASTRUCTURE RELATED TO THE DISTRIBUTION OF THERMAL ENERGY.

(II) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS IMPACTING THE STATUTORY REQUIREMENTS RELATED TO THE LOCAL GOVERNMENT ACQUISITION OF ELECTRICAL DISTRIBUTION INFRASTRUCTURE.

(b) IF A LOCAL GOVERNMENT ISSUES BONDS PURSUANT TO THIS SUBSECTION (5), THE BONDS MUST BE PAYABLE SOLELY FROM THE REVENUE DERIVED FROM THE OPERATION OF THE THERMAL ENERGY NETWORK AND DO NOT CONSTITUTE A GENERAL OBLIGATION OF THE LOCAL GOVERNMENT.

(c) GENERAL OBLIGATION BONDS ISSUED PURSUANT TO THIS SUBSECTION (5) ARE SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ALL OTHER APPLICABLE LAWS.

(d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NOTHING IN THIS SUBSECTION (5) SHALL BE CONSTRUED TO LIMIT, RESTRICT, OR OTHERWISE IMPAIR THE BONDING, FINANCING, OR CREDIT-RAISING AUTHORITY, OR ANY POWERS

INCIDENTAL TO THAT AUTHORITY, GRANTED TO A LOCAL GOVERNMENT BY ITS ORGANIC STATUTE OR ANY OTHER PROVISION OF STATE LAW.

(6) A LOCAL GOVERNMENT MAY PROVIDE THERMAL ENERGY SERVICE TO PARTICIPANTS LOCATED OUTSIDE THE JURISDICTIONAL BOUNDARIES OF THE LOCAL GOVERNMENT IF:

(a) THE LOCAL GOVERNMENT HAS ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT IN ACCORDANCE WITH SECTION 29-1-203 WITH THE LOCAL GOVERNMENT IN WHICH THE PARTICIPANT RECEIVING THE THERMAL ENERGY SERVICE IS LOCATED; OR

(b) THE LOCAL GOVERNMENT AND THE PARTICIPANT HAVE ENTERED INTO A THERMAL ENERGY SERVICE AGREEMENT.

(7) THE PROVISION OF THERMAL ENERGY SERVICE IN ACCORDANCE WITH THIS SECTION SHALL NOT BE CONSTRUED AS THE PROVISION OF NATURAL GAS SERVICE AND DOES NOT CONSTITUTE A VIOLATION OF ANY EXCLUSIVE FRANCHISE AGREEMENT FOR THE DISTRIBUTION OF NATURAL GAS.

(8) A THERMAL ENERGY SERVICE AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION MAY BE SUBMITTED AS EVIDENCE OF CUSTOMER DEMAND IN ANY PROCEEDING BEFORE THE PUBLIC UTILITIES COMMISSION CONDUCTED PURSUANT TO SECTION 40-4-121.

(9) NOTHING IN THIS SECTION EXPANDS OR LIMITS THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION OVER A PUBLIC UTILITY REGULATED UNDER TITLE 40. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, THERMAL ENERGY SYSTEMS AUTHORIZED PURSUANT TO THIS SECTION ARE NOT REGULATED BY THE PUBLIC UTILITIES COMMISSION AND ARE GOVERNED BY LOCAL GOVERNMENT CONTRACTING AUTHORITY.

(10) (a) A PUBLIC ELECTRIC UTILITY THAT HAS A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ISSUED BY THE PUBLIC UTILITIES COMMISSION TO PROVIDE RETAIL ELECTRIC SERVICE IN THE TERRITORY WHERE A THERMAL ENERGY NETWORK FACILITY IS LOCATED HAS THE EXCLUSIVE RIGHT TO PROVIDE ELECTRIC SERVICE TO THE THERMAL ENERGY NETWORK FACILITY; EXCEPT THAT THIS SUBSECTION (10) DOES NOT IMPACT A CUSTOMER'S RIGHT TO UTILIZE RETAIL DISTRIBUTED GENERATION, AS DEFINED IN SECTION 40-2-124 (1)(a)(VIII).

(b) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS IMPACTING THE STATUTORY REQUIREMENTS RELATED TO A PUBLIC ELECTRIC UTILITY OBTAINING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ISSUED BY THE PUBLIC UTILITIES COMMISSION.

(11)(a) EMISSION REDUCTIONS ASSOCIATED WITH A THERMAL ENERGY NETWORK THAT IS OPERATING IN ACCORDANCE WITH THIS SECTION AND THAT IS WITHIN THE SERVICE TERRITORY OF A PUBLIC UTILITY THAT IS REQUIRED TO FILE A CLEAN HEAT PLAN WITH THE PUBLIC UTILITIES COMMISSION PURSUANT TO SECTION 40-3.2-108 SHALL BE COUNTED AS PART OF THE PUBLIC UTILITY'S EMISSION REDUCTION CALCULATIONS RELATED TO THE UTILITY'S CLEAN HEAT PLAN, EVEN IF THE THERMAL

ENERGY NETWORK IS CONSTRUCTED OR OPERATED WITHOUT UTILITY INVESTMENT OR PARTICIPATION.

(b) THE PUBLIC UTILITIES COMMISSION SHALL PROHIBIT THE DOUBLE COUNTING OF EMISSION REDUCTIONS ASSOCIATED WITH A THERMAL ENERGY NETWORK.

(c) A LOCAL GOVERNMENT THAT CONSTRUCTS, DEVELOPS, OR OPERATES A THERMAL ENERGY NETWORK SHALL NOTIFY THE PUBLIC UTILITY THAT PROVIDES UTILITY SERVICE TO THE LOCATION WHERE THE THERMAL ENERGY NETWORK IS LOCATED THAT THE LOCAL GOVERNMENT WILL CONSTRUCT, DEVELOP, OR OPERATE A THERMAL ENERGY NETWORK PRIOR TO BEGINNING CONSTRUCTION OF THE THERMAL ENERGY NETWORK IN ORDER TO ALLOW FOR COORDINATION BETWEEN THE LOCAL GOVERNMENT AND THE PUBLIC UTILITY RELATED TO THE UTILITY'S CLEAN HEAT PLAN, TO THE EXTENT PRACTICABLE.

SECTION 3. In Colorado Revised Statutes, **add** 30-11-134 as follows:

30-11-134. Thermal energy network agreements.

A BOARD OF COUNTY COMMISSIONERS MAY ENTER INTO AGREEMENTS WITH ONE OR MORE ENTITIES, INCLUDING OTHER LOCAL GOVERNMENTAL ENTITIES, FOR THE PROVISION OF SERVICE FROM A THERMAL ENERGY NETWORK IN ACCORDANCE WITH SECTION 40-4-121 (7) OR 29-1-208.

SECTION 4. In Colorado Revised Statutes, 31-15-713, **amend** (1)(a) as follows:

31-15-713. Power to sell public works - real property.

(1) The governing body of each municipality has the power:

(a) To sell and dispose of waterworks, ditches, gasworks, geothermal systems, solar systems, electric light works, THERMAL ENERGY NETWORKS AS DEFINED IN SECTION 40-3.2-108 (2)(s), or other public utilities, public buildings, real property used or held for park purposes, or ~~any other~~ real property used or held for any governmental purpose. Before any such sale is made, the question of ~~said~~ the sale and the terms and consideration ~~thereof~~ OF THE SALE shall be submitted at a regular or special election and approved in the manner provided for authorization of bonded indebtedness by section 31-15-302 (1)(d).

SECTION 5. In Colorado Revised Statutes, 31-15-901, **add** (1)(e) as follows:

31-15-901. Miscellaneous powers.

(1) The governing body of each municipality has the power:

(e) TO ENTER INTO AGREEMENTS WITH ONE OR MORE ENTITIES, INCLUDING OTHER LOCAL GOVERNMENTAL ENTITIES, FOR THE PROVISION OF SERVICE FROM A THERMAL ENERGY NETWORK IN ACCORDANCE WITH SECTION 40-4-121 (7).

SECTION 6. In Colorado Revised Statutes, 32-1-1001, **add** (1)(p) as follows:

32-1-1001. Common powers - definitions.

(1) For and on behalf of the special district, the board has the following powers:

(p) TO ENTER INTO AGREEMENTS WITH ONE OR MORE PARTIES, INCLUDING OTHER LOCAL GOVERNMENTAL ENTITIES, FOR THE PROVISION OF SERVICE FROM A THERMAL ENERGY NETWORK IN ACCORDANCE WITH SECTION 40-4-121 (7) OR 29-1-208.

SECTION 7. In Colorado Revised Statutes, 34-60-106, **add** (2.5)(c) as follows:

34-60-106. Additional powers of commission - fees - rules - definitions - repeal.

(2.5)(c) IN EXERCISING THE AUTHORITY GRANTED TO THE COMMISSION PURSUANT TO THIS ARTICLE 60, THE COMMISSION SHALL NOT CONDITION ANY APPROVAL OF OIL AND GAS OPERATIONS ON AN OPERATOR AGREEING TO SUBJECT THE OPERATOR'S OIL AND GAS WELLS TO THE DATA COLLECTION PROGRAM DESCRIBED IN SECTION 37-90.5-112.

SECTION 8. In Colorado Revised Statutes, **add** 37-90.5-112 as follows:

37-90.5-112. Geothermal data collection - duties of commission - gifts, grants, or donations - report - repeal.

(1)(a) THE COMMISSION AND THE COLORADO GEOLOGICAL SURVEY, ESTABLISHED IN SECTION 23-41-203, SHALL FACILITATE THE COLLECTION OF DATA REGARDING GEOTHERMAL RESOURCES IN THE STATE. IN CONSIDERATION OF AVAILABLE MONEY, THE COMMISSION AND THE COLORADO GEOLOGICAL SURVEY MAY:

(I) COLLECT DATA TO INFORM THE ASSESSMENT OR DEVELOPMENT OF GEOTHERMAL RESOURCES IN THE STATE;

(II) CONSIDER THE USE OF OIL AND GAS WELLS SCHEDULED TO BE PLUGGED AND ABANDONED AS ORPHANED WELLS, AS DEFINED IN SECTION 34-60-133 (8)(f); MARGINAL WELLS, AS DEFINED IN SECTION 34-60-133 (8)(d.5); OR, WITH THE CONSENT OF THE OPERATOR, OTHER OIL AND GAS WELLS IDENTIFIED BY AN OIL AND GAS OPERATOR;

(III) CONSIDER THE USE OF MONITORING AND OBSERVATION WELLS, AS DEFINED IN SECTION 37-91-102 (10.5); TEST HOLES, AS DEFINED IN SECTION 37-91-102 (15.7), AUTHORIZED BY THE STATE BOARD OF EXAMINERS OF WATER WELL AND GROUND HEAT EXCHANGER CONTRACTORS, CREATED IN SECTION 37-91-103; OR OTHER WELLS, AS DEFINED IN SECTION 37-91-102 (16), IDENTIFIED BY THE STATE ENGINEER, APPOINTED PURSUANT TO SECTION 37-80-101;

(IV) ASSESS BOTTOM-HOLE TEMPERATURES AND THERMAL GRADIENTS FROM WELLS, AS DESCRIBED IN SUBSECTIONS (1)(a)(II) AND (1)(a)(III) OF THIS SECTION;

(V) UTILIZE EXISTING INFRASTRUCTURE OR DRILL NEW WELLS FOR DATA COLLECTION IF FUNDING IS AVAILABLE;

(VI) PRIORITIZE THE COLLECTION OF BOTTOM-HOLE TEMPERATURES, THE MEASUREMENT AND EVALUATION OF THERMAL GRADIENTS, AND THE COLLECTION OF OTHER RELEVANT DATA THAT WOULD SUPPORT INCREASED UNDERSTANDING OF AVAILABLE GEOTHERMAL RESOURCES OR THAT COULD FACILITATE OR INFORM:

(A) THE PRODUCTION OF GEOTHERMAL ENERGY;

(B) DRILLING OF RESERVOIR DEPTH RESOURCE EXPLORATION, CHARACTERIZATION, OR CONFIRMATION WELLS TO GATHER ADDITIONAL DATA AND INFORMATION;

(C) FIELD TESTS OR OTHER TESTS AT SITES WITH POTENTIAL FOR HYDROTHERMAL, NEXT-GENERATION DEVELOPMENT, OR ELECTRIC POWER GENERATION; OR

(D) THE DEPLOYMENT OF LOW-TEMPERATURE GEOTHERMAL TECHNOLOGIES FOR HEATING, COOLING, OR OTHER DIRECT USES; AND

(VII) CONSIDER ANY ADDITIONAL RELEVANT DATA OR INFORMATION, INCLUDING:

(A) DATA RELATED TO RESOURCES IN HOT DRY ROCK;

(B) TEMPERATURE AT DEPTH;

(C) INFORMATION RELATED TO SUBSURFACE PERMEABILITY AND FRACTURE NETWORKS;

(D) DATA RELATED TO LOCAL STRESS REGIMES; AND

(E) THERMAL CONDUCTIVITY, THERMAL DIFFUSIVITY, AND UNDISTURBED GROUND TEMPERATURE.

(b) THE DATA COLLECTION CONDUCTED PURSUANT TO THIS SUBSECTION (1) MUST BE:

(I) CONDUCTED SUBJECT TO PRIVATE PROPERTY RIGHTS;

(II) CONDUCTED WITHOUT COMPELLING THE PUBLIC RELEASE OF PROPRIETARY DATA WITHOUT THE CONSENT OF THE DATA OWNER;

(III) CONDUCTED WITHOUT INCREASING THE RISK OF ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING THE ENVIRONMENT AND WILDLIFE RESOURCES;

(IV) CONDUCTED VOLUNTARILY WHEN DATA IS PROVIDED BY AN ENTITY OTHER THAN THE COMMISSION OR THE COLORADO GEOLOGICAL SURVEY; AND

(V) ORGANIZED IN A SEARCHABLE FORMAT THAT IS MADE AVAILABLE AT NO COST TO THE PUBLIC.

(c) (I) THE COMMISSION AND THE COLORADO GEOLOGICAL SURVEY MAY CONTRACT WITH THIRD-PARTY ENTITIES TO CONDUCT THE DATA COLLECTION PURSUANT TO THIS SUBSECTION (1).

(II) THE COMMISSION MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF CONDUCTING THE DATA COLLECTION PURSUANT TO THIS SUBSECTION (1).

(III) THE COMMISSION MAY EXPEND ANY MONEY APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE PURPOSES OF CONDUCTING THE DATA COLLECTION PURSUANT TO THIS SUBSECTION (1).

(d) (I) THE COLLECTION OF DATA CONDUCTED PURSUANT TO THIS SUBSECTION (1) IS CONTINGENT ON AVAILABLE APPROPRIATIONS OR GIFTS, GRANTS, OR DONATIONS RECEIVED FOR THIS PURPOSE AND DOES NOT IMPAIR THE COLORADO GEOLOGICAL SURVEY'S OBLIGATION TO FULFILL EXISTING STATUTORY RESPONSIBILITIES. THE COLORADO GEOLOGICAL SURVEY SHALL NOT REDUCE EXISTING COMMITMENTS OF MONEY MADE BY THE COLORADO GEOLOGICAL SURVEY FROM THE SEVERANCE TAX OPERATIONAL FUND, CREATED IN SECTION 39-29-109 (2)(b)(I), OR THE GENERAL FUND TO CONDUCT THE DATA COLLECTION.

(II) THE COLLECTION OF DATA CONDUCTED PURSUANT TO THIS SUBSECTION (1) IS CONTINGENT ON AVAILABLE APPROPRIATIONS OR GIFTS, GRANTS, OR DONATIONS RECEIVED FOR THIS PURPOSE AND DOES NOT IMPAIR THE COMMISSION'S OBLIGATION TO FULFILL EXISTING STATUTORY OR REGULATORY RESPONSIBILITIES OR EXISTING PERMITTING AND REGULATORY PROGRAMS. THE COMMISSION SHALL NOT REDUCE EXISTING COMMITMENTS OF MONEY MADE BY THE COMMISSION FROM THE SEVERANCE TAX OPERATIONAL FUND, CREATED IN SECTION 39-29-109 (2)(b)(I), OR THE GENERAL FUND TO CONDUCT THE DATA COLLECTION.

(2) (a) THE COMMISSION SHALL DEVELOP RECOMMENDATIONS TO ENCOURAGE THE SAFE AND EFFECTIVE DEVELOPMENT OF GEOTHERMAL RESOURCES IN THE STATE.

(b) (I) IN DEVELOPING THE RECOMMENDATIONS PURSUANT TO THIS SUBSECTION (2), THE COMMISSION MAY CONSIDER MEASURES THAT FACILITATE THE SAFE AND EFFECTIVE DEVELOPMENT OF GEOTHERMAL RESOURCES, INCLUDING THE CREATION OF A GEOTHERMAL DEVELOPMENT AUTHORITY.

(II) ANY RECOMMENDED GEOTHERMAL DEVELOPMENT AUTHORITY MAY BE STRUCTURED TO FACILITATE PUBLIC-PRIVATE PARTNERSHIPS, SECURE FEDERAL FUNDING, AND PROVIDE FINANCIAL RISK-MITIGATION MECHANISMS FOR DEEP EXPLORATORY DRILLING AND ASSOCIATED TRANSMISSION INFRASTRUCTURE OR FOR CONDUCTING THERMAL ENERGY NETWORK STUDIES OR DEVELOPING A THERMAL ENERGY NETWORK. ANY RECOMMENDED GEOTHERMAL DEVELOPMENT AUTHORITY MUST BE NONREGULATORY IN NATURE.

(c) IN DEVELOPING THE RECOMMENDATIONS PURSUANT TO THIS SUBSECTION (2), THE COMMISSION SHALL CONSULT WITH:

(I) STATE AGENCIES WITH SUBJECT MATTER EXPERTISE RELEVANT TO THE RECOMMENDATIONS, INCLUDING:

(A) THE COLORADO GEOLOGICAL SURVEY;

(B) THE COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101;

(C) THE DIVISION OF WATER RESOURCES IN THE DEPARTMENT OF NATURAL RESOURCES; AND

(D) THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101;

(II) STAKEHOLDERS WITH TECHNICAL OR ECONOMIC EXPERTISE REGARDING THE DEVELOPMENT OF GEOTHERMAL RESOURCES, AS DETERMINED BY THE COMMISSION; AND

(III) ANY OTHER PERSON THE COMMISSION DETERMINES NECESSARY TO DEVELOP RECOMMENDATIONS FOR THE SAFE AND EFFECTIVE DEVELOPMENT OF GEOTHERMAL RESOURCES IN THE STATE.

(3) ON OR BEFORE NOVEMBER 15, 2026, THE COMMISSION SHALL SUBMIT A REPORT THAT SUMMARIZES THE RECOMMENDATIONS DEVELOPED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO THE HOUSE OF REPRESENTATIVES ENERGY AND ENVIRONMENT COMMITTEE AND THE SENATE TRANSPORTATION AND ENERGY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

(4) THIS SUBSECTION (4) AND SUBSECTIONS (2) AND (3) OF THIS SECTION ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2028.

SECTION 9. In Colorado Revised Statutes, 40-2-127.5, **amend** (2)(a)(IV) as follows:

40-2-127.5. Community energy funds - community geothermal gardens - rules - legislative declaration - definitions - repeal.

(2) **Definitions.** As used in this section, unless the context otherwise requires, the definitions in section 40-2-124 apply, and:

(a) (IV) A community geothermal garden must have a ~~nameplate rating of five~~ NET ELECTRIC GENERATING CAPACITY OF TWENTY-FIVE megawatts or less. ~~except that the commission may, in rules adopted pursuant to subsection (3)(b) of this section, approve the formation of a community geothermal garden with a nameplate rating of up to ten megawatts.~~

SECTION 10. In Colorado Revised Statutes, **add** 40-2-143 as follows:

40-2-143. Geothermal energy development - small-scale geothermal projects - large-scale geothermal projects - commission duties - labor requirements - rules - definitions.

(1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "INVESTOR-OWNED ELECTRIC UTILITY" OR "UTILITY" MEANS AN INVESTOR-OWNED UTILITY THAT PROVIDES RETAIL ELECTRIC SERVICE TO CUSTOMERS IN THE STATE AND IS REGULATED BY THE COMMISSION.

(b) "LARGE-SCALE GEOTHERMAL PROJECT" MEANS A GEOTHERMAL PROJECT OR GEOTHERMAL PROJECTS IDENTIFIED BY A UTILITY PURSUANT TO SUBSECTION (3) OF THIS SECTION THAT INDIVIDUALLY OR IN AGGREGATE PRODUCE MORE THAN TWENTY-FIVE MEGAWATTS OF NAMEPLATE ELECTRIC GENERATING CAPACITY.

(c) "NET ELECTRIC GENERATING CAPACITY" MEANS THE MAXIMUM CONTINUOUS ELECTRICAL OUTPUT, EXPRESSED IN MEGAWATTS, DELIVERED TO THE TRANSMISSION OR DISTRIBUTION SYSTEM, EXCLUDING AUXILIARY OR PARASITIC LOADS REQUIRED FOR ON-SITE PLANT OPERATIONS.

(d) "SMALL-SCALE GEOTHERMAL PROJECT" MEANS A GEOTHERMAL PROJECT IDENTIFIED BY A UTILITY PURSUANT TO SUBSECTION (2) OF THIS SECTION THAT PRODUCES TWENTY-FIVE MEGAWATTS OR LESS OF NAMEPLATE ELECTRIC GENERATING CAPACITY.

(2) Small-scale geothermal projects.

(a) AN INVESTOR-OWNED ELECTRIC UTILITY SHALL IDENTIFY ONE OR MORE POTENTIAL SMALL-SCALE GEOTHERMAL PROJECTS AT SPECIFIC LOCATIONS OR AS COMMUNITY GEOTHERMAL GARDENS, AS DEFINED IN SECTION 40-2-127.5 (2)(a).

(b) WHEN CONSIDERING THE DEVELOPMENT OF SMALL-SCALE GEOTHERMAL PROJECTS, AN INVESTOR-OWNED ELECTRIC UTILITY SHALL ISSUE A REQUEST FOR PROPOSALS TO SOLICIT PROPOSALS AND BIDS FOR DEVELOPMENT OF SMALL-SCALE GEOTHERMAL PROJECTS THAT THE UTILITY SHALL SUBMIT TO THE COMMISSION IN ACCORDANCE WITH SUBSECTION (2)(c) OF THIS SECTION.

(c) NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER AN INVESTOR-OWNED ELECTRIC UTILITY CONCLUDES THE REQUEST FOR PROPOSALS CONDUCTED IN ACCORDANCE WITH SUBSECTION (2)(b) OF THIS SECTION, THE INVESTOR-OWNED ELECTRIC UTILITY SHALL SUBMIT AN APPLICATION TO THE COMMISSION FOR THE DEVELOPMENT OF SMALL-SCALE GEOTHERMAL PROJECTS IF THE UTILITY RECEIVES A BID IN RESPONSE TO THE REQUEST FOR PROPOSALS SOLICITED IN ACCORDANCE WITH THIS SUBSECTION (2), WHICH APPLICATION MUST INCLUDE:

(I) A DESCRIPTION OF THE SMALL-SCALE GEOTHERMAL PROJECT AND WHETHER IT IS LOCATION SPECIFIC OR A COMMUNITY GEOTHERMAL GARDEN;

(II) THE PROPOSED LOCATION OF THE SMALL-SCALE GEOTHERMAL PROJECT;

(III) THE AMOUNT OF ELECTRICITY, MEASURED IN MEGAWATT-HOURS, THAT WILL BE GENERATED FROM THE SMALL-SCALE GEOTHERMAL PROJECT; AND

(IV) AN ESTIMATE OF THE PROJECTED TOTAL CAPITAL COST AND OPERATING COST OF THE SMALL-SCALE GEOTHERMAL PROJECT AND THE IMPACT THAT THE COST WILL HAVE ON THE UTILITY'S CUSTOMERS.

(d) THE COMMISSION SHALL APPROVE, CONDITIONALLY APPROVE, DENY, OR MODIFY AN INVESTOR-OWNED ELECTRIC UTILITY'S APPLICATION SUBMITTED PURSUANT TO THIS SUBSECTION (2) WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING THE APPLICATION, OR WITHIN ONE HUNDRED EIGHTY DAYS AFTER RECEIVING THE APPLICATION, FOR GOOD CAUSE SHOWN.

(e) IN EVALUATING A SMALL-SCALE GEOTHERMAL PROJECT BID OR PROPOSAL, THE COMMISSION SHALL EVALUATE THE BID OR PROPOSAL SUBMITTED BY AN INVESTOR-OWNED ELECTRIC UTILITY BASED ON FACTORS THAT INCLUDE:

(I) THE PROJECTED TOTAL CAPITAL AND OPERATING COST OF THE SMALL-SCALE GEOTHERMAL PROJECT AND THE PROJECT'S IMPACT ON RATEPAYERS IS REASONABLE IN CONSIDERATION OF GREENHOUSE GAS EMISSION REDUCTIONS AND OTHER RELEVANT BENEFITS, INCLUDING RESOURCE ADEQUACY NEEDS, LONG-TERM CAPACITY ACCREDITATION, THE NEED FOR CLEAN FIRM GENERATION RESOURCES, AND ACHIEVING STATE ENERGY POLICY GOALS, AS DETERMINED BY THE COMMISSION; AND

(II) THE DEVELOPMENT OF THE SMALL-SCALE GEOTHERMAL PROJECT IS IN THE PUBLIC INTEREST.

(f) AS PART OF AN APPLICATION SUBMITTED TO THE COMMISSION PURSUANT TO THIS SUBSECTION (2), THE INVESTOR-OWNED ELECTRIC UTILITY SHALL REQUEST, AS APPROPRIATE:

(I) A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY;

(II) APPROVAL FOR ANY PROCUREMENT AGREEMENTS AND ASSOCIATED COST RECOVERY BY THE INVESTOR-OWNED ELECTRIC UTILITY; AND

(III) APPROVAL OF A RETURN ON INVESTED CAPITAL RECOVERY APPROACH FOR ANY USED AND USEFUL PROJECT OWNED BY THE INVESTOR-OWNED ELECTRIC UTILITY THAT IS DEVELOPED IN ACCORDANCE WITH THIS SECTION.

(3) **Large-scale geothermal projects.**

(a) (I) WHEN CONSIDERING THE DEVELOPMENT OF LARGE-SCALE GEOTHERMAL PROJECTS, AN INVESTOR-OWNED ELECTRIC UTILITY SHALL ISSUE A REQUEST FOR PROPOSALS TO SOLICIT PROPOSALS AND BIDS FOR DEVELOPMENT OF LARGE-SCALE GEOTHERMAL PROJECTS THAT THE UTILITY SHALL SUBMIT TO THE COMMISSION IN ACCORDANCE WITH SUBSECTION (3)(b) OF THIS SECTION.

(II) WHEN SOLICITING A REQUEST FOR PROPOSALS IN ACCORDANCE WITH THIS SUBSECTION (3)(a), THE INVESTOR-OWNED ELECTRIC UTILITY SHALL TARGET THE ACQUISITION OR DEVELOPMENT OF NO MORE THAN THREE HUNDRED MEGAWATTS OF NAMEPLATE ELECTRIC GENERATING CAPACITY FROM LARGE-SCALE GEOTHERMAL PROJECTS.

(b) NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER AN INVESTOR-OWNED ELECTRIC UTILITY CONCLUDES THE REQUEST FOR PROPOSALS CONDUCTED IN ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION, THE INVESTOR-OWNED

ELECTRIC UTILITY SHALL SUBMIT AN APPLICATION TO THE COMMISSION FOR THE DEVELOPMENT OF LARGE-SCALE GEOTHERMAL PROJECTS IF THE UTILITY RECEIVES A BID IN RESPONSE TO THE REQUEST FOR PROPOSALS SOLICITED IN ACCORDANCE WITH THIS SUBSECTION (3), WHICH APPLICATION MUST INCLUDE:

(I) A DESCRIPTION OF THE LARGE-SCALE GEOTHERMAL PROJECT AND WHETHER IT IS A SINGLE PROJECT OR AN AGGREGATE OF MULTIPLE GEOTHERMAL PROJECTS;

(II) THE PROPOSED LOCATION OR LOCATIONS OF THE LARGE-SCALE GEOTHERMAL PROJECT;

(III) THE TOTAL AMOUNT OF ELECTRICITY, MEASURED IN MEGAWATT-HOURS, THAT WILL BE GENERATED FROM THE LARGE-SCALE GEOTHERMAL PROJECT AND THE ACCREDITED CAPACITY ASSOCIATED WITH THE PROJECT OR PROJECTS;

(IV) AN ESTIMATE OF THE PROJECTED TOTAL CAPITAL COST AND OPERATING COST OF THE LARGE-SCALE GEOTHERMAL PROJECT AND THE IMPACT THAT THE COST WILL HAVE ON THE UTILITY'S CUSTOMERS;

(V) THE PROPOSED OWNERSHIP STRUCTURE FOR THE LARGE-SCALE GEOTHERMAL PROJECTS, WHICH MAY INCLUDE FULL OR PARTIAL BUILD TRANSFER OWNERSHIP STRUCTURES, JOINT VENTURES, OR INDEPENDENT POWER PRODUCTION OWNERSHIP STRUCTURES WITH A POWER PURCHASE AGREEMENT; AND

(VI) A DESCRIPTION OF ANY SPECIFIC CUSTOMER OR GROUP OF CUSTOMERS THAT THE INVESTOR-OWNED ELECTRIC UTILITY MAY PARTNER WITH TO SUPPORT THE DEVELOPMENT OF A LARGE-SCALE GEOTHERMAL PROJECT IN ACCORDANCE WITH SUBSECTION (3)(d) OF THIS SECTION.

(c) THE COMMISSION SHALL APPROVE, CONDITIONALLY APPROVE, DENY, OR MODIFY AN INVESTOR-OWNED ELECTRIC UTILITY'S APPLICATION SUBMITTED PURSUANT TO THIS SUBSECTION (3) WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING THE APPLICATION, OR WITHIN ONE HUNDRED EIGHTY DAYS AFTER RECEIVING THE APPLICATION, FOR GOOD CAUSE SHOWN.

(d) IN EVALUATING A LARGE-SCALE GEOTHERMAL PROJECT BID OR PROPOSAL, THE COMMISSION SHALL EVALUATE THE BID OR PROPOSAL SUBMITTED BY AN INVESTOR-OWNED ELECTRIC UTILITY BASED ON WHETHER:

(I) THE PROJECTED TOTAL CAPITAL AND OPERATING COST OF THE LARGE-SCALE GEOTHERMAL PROJECT AND THE PROJECT'S IMPACT ON RATEPAYERS IS REASONABLE IN CONSIDERATION OF RELIABILITY, GREENHOUSE GAS EMISSION REDUCTIONS, AND OTHER RELEVANT BENEFITS, INCLUDING RESOURCE ADEQUACY NEEDS, LONG-TERM CAPACITY ACCREDITATION, THE NEED FOR CLEAN FIRM GENERATION RESOURCES TO MAKE PROGRESS TOWARD THE ECONOMY-WIDE GOAL OF NET-ZERO EMISSIONS BY 2050, AND ACHIEVING STATE ENERGY POLICY GOALS, AS DETERMINED BY THE COMMISSION; AND

(II) THE DEVELOPMENT OF THE LARGE-SCALE GEOTHERMAL PROJECT IS IN THE PUBLIC INTEREST.

(e) AS PART OF AN APPLICATION SUBMITTED TO THE COMMISSION PURSUANT TO THIS SUBSECTION (3), THE INVESTOR-OWNED ELECTRIC UTILITY MAY REQUEST, TO THE EXTENT NECESSARY:

(I) A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY;

(II) APPROVAL FOR ANY PROCUREMENT AGREEMENTS AND ASSOCIATED COST RECOVERY BY THE INVESTOR-OWNED ELECTRIC UTILITY; AND

(III) APPROVAL OF A RETURN ON INVESTED CAPITAL RECOVERY APPROACH FOR ANY PROJECT OWNED BY THE INVESTOR-OWNED ELECTRIC UTILITY THAT IS DEVELOPED IN ACCORDANCE WITH THIS SECTION.

(f) AN INVESTOR-OWNED ELECTRIC UTILITY MAY ONLY SUBMIT ONE APPLICATION TO THE COMMISSION PURSUANT TO THIS SUBSECTION (3). AN INVESTOR-OWNED ELECTRIC UTILITY SHALL USE THE EXPERIENCE FROM CONDUCTING THE SOLICITATION AND SUBMITTING AN APPLICATION PURSUANT TO THIS SUBSECTION (3) TO INFORM THE UTILITY'S APPROACH IN FUTURE ELECTRIC RESOURCE PLAN PROCEEDINGS RELATED TO GEOTHERMAL ENERGY DEVELOPMENT AND OTHER CLEAN FIRM TECHNOLOGIES.

(4) **Labor requirements.** A SMALL-SCALE GEOTHERMAL PROJECT OR A LARGE-SCALE GEOTHERMAL PROJECT AUTHORIZED PURSUANT TO THIS SECTION THAT IS CONSIDERED AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303 (5), MUST COMPLY WITH:

(a) THE PREVAILING WAGE REQUIREMENTS IN PART 2 OF ARTICLE 92 OF TITLE 24;

(b) THE APPRENTICESHIP UTILIZATION REQUIREMENTS IN SECTION 24-92-115 (7);
AND

(c) THE LABOR REQUIREMENTS IN PART 3 OF ARTICLE 92 OF TITLE 24.

(5) **Rules.** THE COMMISSION MAY ADOPT ANY RULES NECESSARY TO IMPLEMENT AND ENFORCE THIS SECTION.

SECTION 11. In Colorado Revised Statutes, 40-4-121, **add** (1)(e.5) and (7) as follows:

40-4-121. Thermal energy network projects - pilot program for large gas utilities - application - commission proceeding - reporting - thermal energy network for local governments - definitions.

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

(e.5) "SPECIAL DISTRICT" HAS THE MEANING SET FORTH IN SECTION 32-1-103 (20).

(7) A LOCAL GOVERNMENT OR A SPECIAL DISTRICT MAY AGGREGATE THERMAL ENERGY DEMAND FOR THE PURPOSE OF FACILITATING SERVICE FROM A THERMAL ENERGY NETWORK IN ACCORDANCE WITH SECTION 29-1-208.

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

Approved: June 1, 2026