

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-0711.01 Jery Payne x2157

SENATE BILL 19-077

SENATE SPONSORSHIP

Priola and Williams A., Bridges, Fenberg, Foote

HOUSE SPONSORSHIP

Hansen, Arndt, Becker, Bird, Cutter, Gray, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, McCluskie, McLachlan, Melton, Michaelson Jenet, Roberts, Singer, Snyder

Senate Committees

Business, Labor, & Technology

House Committees

Transportation & Local Government

A BILL FOR AN ACT

101 **CONCERNING MEASURES THAT AFFECT THE DEVELOPMENT OF**
102 **INFRASTRUCTURE USED BY ELECTRIC MOTOR VEHICLES, AND, IN**
103 **CONNECTION THEREWITH, ESTABLISHING A PROCESS AT THE**
104 **COLORADO PUBLIC UTILITIES COMMISSION WHEREBY A PUBLIC**
105 **UTILITY MAY UNDERTAKE IMPLEMENTATION OF AN ELECTRIC**
106 **MOTOR VEHICLE INFRASTRUCTURE PROGRAM WITHIN THE AREA**
107 **COVERED BY THE UTILITY'S CERTIFICATE OF PUBLIC**
108 **CONVENIENCE AND NECESSITY.**

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

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

HOUSE
3rd Reading Unamended
April 18, 2019

HOUSE
Amended 2nd Reading
April 17, 2019

SENATE
3rd Reading Unamended
March 8, 2019

SENATE
Amended 2nd Reading
March 5, 2019

<http://leg.colorado.gov>.)

Currently, public utilities may provide charging ports or fueling stations for motor vehicles as unregulated services. The bill authorizes public utilities to provide these services as regulated or unregulated services and allows cost recovery.

The bill allows a public utility to apply to the public utilities commission (commission) to build facilities to support electric vehicles. Standards are set for approval. When a facility is built, the rates and charges for the services:

- ! May allow a return on any investment made by a public utility at the utility's weighted average cost of capital at the utility's most recent rate of return on equity approved by the commission; and
- ! Must be recovered from all customers of a public utility in a manner that is similar to the recovery of distribution system investments.

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

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

4 (a) Widespread adoption of electric vehicles is necessary to
5 diversify the transportation fuel mix, improve national security, and
6 protect air quality;

7 (b) The number of electric vehicles registered in Colorado has
8 doubled over the last three years, and, with expanded infrastructure
9 investment, future growth is projected to accelerate;

10 (c) This growth will be assisted by investments in infrastructure
11 necessary to maximize the benefits of the expanding electric vehicle
12 market;

13 (d) Widespread adoption of electric vehicles requires that public
14 utilities increase access to electricity as transportation fuel, including for
15 low- and moderate-income and underserved communities;

16 (e) Widespread adoption of electric vehicles should provide

1 consumers with fuel cost savings and electric utility customers with
2 potential cost-saving benefits;

3 (f) Widespread adoption of electric vehicles should stimulate
4 innovation, competition, and increased choices in charging equipment and
5 networks and should also attract private capital investments and create
6 high-quality jobs in Colorado; and

7 (g) Widespread adoption of electric vehicles should improve an
8 electric public utility's electrical system efficiency and operational
9 flexibility, including the ability of the electric public utility to integrate
10 variable renewable energy generation resources and to make use of
11 off-peak generation resources.

12 **SECTION 2.** In Colorado Revised Statutes, 40-1-103.3, **amend**
13 (2) and (6) as follows:

14 **40-1-103.3. Alternative fuel vehicles - definition.** (2) For the
15 purposes of articles 1 to 7 of this title TITLE 40, persons generating
16 electricity for use in alternative fuel vehicle charging or fueling facilities
17 as authorized by subsection (4) of this section, persons reselling
18 electricity supplied by a public utility, or persons reselling compressed or
19 liquefied natural gas, liquefied petroleum gas, or any component parts or
20 by-products to governmental entities or to the public for use as fuel in
21 alternative fuel vehicles or buying electricity stored in such vehicles for
22 resale are not subject to regulation as a public utility. Electric and natural
23 gas public utilities may provide the services described in this subsection
24 (2) as unregulated OR REGULATED services. and NATURAL GAS PUBLIC
25 UTILITIES MAY PROVIDE these SERVICES AS unregulated services. may not
26 be subsidized by the regulated services of the electric or natural gas
27 public utility.

1 (6) The regulated expenditures and investments made by a public
2 utility to accommodate alternative fuel vehicle charging and fueling
3 facilities are equal in priority to all other infrastructure necessary to serve
4 any customer of the public utility in its service territory, but are
5 subordinate to the safety and reliability obligations of the utility AN
6 ELECTRIC PUBLIC UTILITY MAY RECOVER THE COSTS OF DISTRIBUTION
7 SYSTEM INVESTMENTS TO ACCOMMODATE ALTERNATIVE FUEL VEHICLE
8 CHARGING, SUBJECT TO EVALUATION AND COST RECOVERY PROVISIONS
9 THAT ARE COMPARABLE TO OTHER REGULATED INVESTMENTS IN THE
10 DISTRIBUTION GRID; EXCEPT THAT DISTRIBUTION SYSTEM INVESTMENTS
11 THAT ARE A COMPONENT OF A TRANSPORTATION ELECTRIFICATION PLAN
12 SUBMITTED IN ACCORDANCE WITH SECTION 40-5-107 ARE SUBJECT TO
13 SECTIONS 40-3-116 AND 40-5-107. THE COMMISSION SHALL CONSIDER
14 REVENUES FROM ELECTRIC VEHICLES IN THE UTILITY'S SERVICE TERRITORY
15 IN EVALUATING THE RETAIL RATE IMPACT. THE RETAIL RATE IMPACT FROM
16 THE DEVELOPMENT OF ELECTRIC VEHICLE INFRASTRUCTURE MUST NOT
17 EXCEED ONE-HALF OF ONE PERCENT OF THE TOTAL ANNUAL REVENUE
18 REQUIREMENTS OF THE UTILITY.

19 **SECTION 3.** In Colorado Revised Statutes, add 40-3-116 as
20 follows:

21 **40-3-116. Electric vehicle programs - rates.** (1) THE RATES AND
22 CHARGES SCHEDULE FOR SERVICES PROVIDED BY A PROGRAM CREATED
23 UNDER SECTION 40-5-107 MAY ALLOW:

24 (a) A RETURN ON ANY INVESTMENT MADE UNDER SECTION
25 40-5-107 BY AN ELECTRIC PUBLIC UTILITY AT THE ELECTRIC PUBLIC
26 UTILITY'S WEIGHTED AVERAGE COST OF CAPITAL, INCLUDING THE MOST
27 RECENT RATE OF RETURN ON EQUITY, APPROVED BY THE COMMISSION.

1 INCLUDING BY ALLOWING A UTILITY TO EARN A RATE OF RETURN ON
2 REBATES PROVIDED TO CUSTOMERS THROUGH A TRANSPORTATION
3 ELECTRIFICATION PROGRAM;

4 (b) RATE RECOVERY MECHANISMS THAT ALLOW EARLIER, AS
5 DETERMINED BY THE COMMISSION, RECOVERY OF COSTS, INCLUDING THE
6 USE OF RATE ADJUSTMENT CLAUSES; AND

7 (c) PERFORMANCE-BASED INCENTIVE RETURNS OR SIMILAR
8 INVESTMENT INCENTIVES.

9 (2) BY MAY 15, 2020, AN ELECTRIC PUBLIC UTILITY SHALL SUBMIT
10 TO THE COMMISSION A PROPOSAL FOR A SPECIFIC RATE OR RATES FOR
11 ELECTRICITY SUPPLIED TO COMMERCIAL AND INDUSTRIAL FACILITIES USED
12 TO CHARGE ELECTRIC VEHICLES THAT ENCOURAGE VEHICLE CHARGING
13 AND THAT SUPPORT THE OPERATION OF THE ELECTRIC GRID.

14 **SECTION 4. In Colorado Revised Statutes, add 40-5-107 as**
15 **follows:**

16 **40-5-107. Electric vehicle programs - repeal.** (1) (a) NOLATER
17 THAN MAY 15, 2020, AND ON OR BEFORE MAY 15 EVERY THREE YEARS
18 THEREAFTER, AN ELECTRIC PUBLIC UTILITY SHALL FILE WITH THE
19 COMMISSION AN APPLICATION FOR A PROGRAM FOR REGULATED
20 ACTIVITIES TO SUPPORT WIDESPREAD TRANSPORTATION ELECTRIFICATION
21 WITHIN THE AREA COVERED BY THE UTILITY'S CERTIFICATE OF PUBLIC
22 CONVENIENCE AND NECESSITY.

23 (b) TO COMPLY WITH THIS SUBSECTION (1), AN APPLICATION MUST
24 SEEK TO MINIMIZE OVERALL COSTS AND MAXIMIZE OVERALL BENEFITS AND
25 MAY INCLUDE:

26 (I) INVESTMENTS OR INCENTIVES TO FACILITATE THE DEPLOYMENT
27 OF CUSTOMER-OWNED OR UTILITY-OWNED CHARGING INFRASTRUCTURE.

1 INCLUDING CHARGING FACILITIES, MAKE-READY INFRASTRUCTURE, AND
2 ASSOCIATED ELECTRICAL EQUIPMENT THAT SUPPORT TRANSPORTATION
3 ELECTRIFICATION;

4 (II) INVESTMENTS OR INCENTIVES TO FACILITATE THE
5 ELECTRIFICATION OF PUBLIC TRANSIT AND OTHER VEHICLE FLEETS;

6 (III) RATE DESIGNS, OR PROGRAMS THAT ENCOURAGE VEHICLE
7 CHARGING THAT SUPPORTS THE OPERATION OF THE ELECTRIC GRID; AND

8 (IV) CUSTOMER EDUCATION, OUTREACH, AND INCENTIVE
9 PROGRAMS THAT INCREASE AWARENESS OF THE PROGRAMS AND OF THE
10 BENEFITS OF TRANSPORTATION ELECTRIFICATION AND ENCOURAGE
11 GREATER ADOPTION OF ELECTRIC VEHICLES.

12 (2) WHEN CONSIDERING TRANSPORTATION ELECTRIFICATION
13 PROGRAMS AND DETERMINING COST RECOVERY FOR INVESTMENTS AND
14 OTHER EXPENDITURES RELATED TO PROGRAMS PROPOSED BY AN ELECTRIC
15 PUBLIC UTILITY UNDER SUBSECTION (1) OF THIS SECTION, THE COMMISSION
16 MAY CONSIDER WHETHER THE INVESTMENTS AND OTHER EXPENDITURES
17 ARE:

18 (a) REASONABLY EXPECTED TO IMPROVE THE USE OF THE ELECTRIC
19 GRID, INCLUDING IMPROVED INTEGRATION OF RENEWABLE ENERGY;

20 (b) REASONABLY EXPECTED TO INCREASE ACCESS TO THE USE OF
21 ELECTRICITY AS A TRANSPORTATION FUEL;

22 (c) DESIGNED TO ENSURE SYSTEM SAFETY AND RELIABILITY;

23 (d) (I) REASONABLY EXPECTED TO CONTRIBUTE TO MEETING AIR
24 QUALITY STANDARDS AND REDUCING STATEWIDE EMISSIONS OF
25 GREENHOUSE GASES BY FORTY PERCENT BELOW 2005 LEVELS BY 2030 AND
26 EIGHTY PERCENT BELOW 2005 LEVELS BY 2050.

27 (II) THIS SUBSECTION (2)(d) IS REPEALED, EFFECTIVE JULY 1, 2031.

1 (e) REASONABLY EXPECTED TO STIMULATE INNOVATION,
2 COMPETITION, AND INCREASED CONSUMER CHOICES IN ELECTRIC VEHICLE
3 CHARGING AND RELATED INFRASTRUCTURE AND SERVICES; ATTRACT
4 PRIVATE CAPITAL INVESTMENTS; AND UTILIZE HIGH-QUALITY JOBS AND
5 SKILLED WORKER TRAINING PROGRAMS AS DEFINED IN SECTION 8-83-303;

6 (f) TRANSPARENT, INCORPORATING PUBLIC REPORTING
7 REQUIREMENTS TO INFORM DESIGN AND COMMISSION POLICY; AND

8 (g) REASONABLY EXPECTED TO PROVIDE ACCESS FOR LOW-INCOME
9 CUSTOMERS, IN THE TOTALITY OF THE UTILITY'S TRANSPORTATION
10 ELECTRIFICATION PROGRAMS, WHILE GIVING DUE CONSIDERATION TO THE
11 IMPACT ON LOW-INCOME CUSTOMERS.

12 (3)(a) ELECTRIC VEHICLE INFRASTRUCTURE ELECTRICAL WORK ON
13 THE CUSTOMER SIDE OF THE UTILITY METER, INCLUDING THE
14 INSTALLATION OF THE CHARGING STATION APPARATUS AND RELATED
15 HARDWARE, MUST:

16 (I) BE PERFORMED BY A LICENSED MASTER ELECTRICIAN, LICENSED
17 JOURNEYMAN ELECTRICIAN, LICENSED RESIDENTIAL WIREMAN, OR
18 PROPERLY SUPERVISED ELECTRICAL APPRENTICE AS EACH TERM IS DEFINED
19 IN SECTION 12-23-101; AND

20 (II) COMPLY WITH ARTICLE 23 OF TITLE 12, INCLUDING SECTIONS
21 12-23-105 AND 12-23-110.5, AND ALL APPLICABLE RULES OF THE STATE
22 ELECTRICAL BOARD.

23 (b) FOR ALL ELECTRIC VEHICLE INFRASTRUCTURE OR CHARGING
24 STATIONS OWNED BY THE UTILITY, THE UTILITY SHALL USE UTILITY
25 EMPLOYEES OR QUALIFIED CONTRACTORS IF THE CONTRACTORS'
26 EMPLOYEES HAVE ACCESS TO AN APPRENTICESHIP PROGRAM AS DEFINED
27 IN SECTION 8-83-303 (2). THIS APPRENTICESHIP REQUIREMENT DOES NOT

1 APPLY TO:
2 (I) THE DESIGN, PLANNING, OR ENGINEERING OF THE
3 INFRASTRUCTURE;
4 (II) MANAGEMENT FUNCTIONS TO OPERATE THE INFRASTRUCTURE;
5 OR
6 (III) ANY WORK INCLUDED IN A WARRANTY.
7 SECTION 5. Safety clause. The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.