

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

BILL A

LLS NO. 20-0338.04 Jason Gelender x4330

HOUSE BILL

HOUSE SPONSORSHIP

Hansen and Jackson, Jaquez Lewis

SENATE SPONSORSHIP

Winter and Tate, Foote

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE VALUATION OF PROPERTY USED TO STORE**
102 **ELECTRICITY.**

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/>.)

Energy Legislation Review Interim Study Committee. The bill ensures that clean energy resources and energy storage systems used to store electricity are assessed for valuation for the purpose of property taxation in a similar manner to renewable energy facility property used to generate and deliver electricity.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-4-101, **amend** the
3 introductory portion, (2.4), (3), (3.5), and (4); and **add** (2.6) and (2.7) as
4 follows:

5 **39-4-101. Definitions.** As used in this article *4*, unless the context
6 otherwise requires:

7 (2.4) ~~"Geothermal energy facility" means a new facility first~~
8 ~~placed in production on or after January 1, 2010, that uses real and~~
9 ~~personal property, including but not limited to leaseholds and easements,~~
10 ~~to generate and deliver to the interconnection meter any source of~~
11 ~~electrical or mechanical energy by harnessing the heat energy of~~
12 ~~groundwater or the ground and that is not primarily designed to supply~~
13 ~~electricity for consumption on site~~ "CLEAN ENERGY RESOURCE" HAS THE
14 SAME MEANING AS SET FORTH IN SECTION 40-2-125.5 (2)(b).

15 (2.6) "ENERGY STORAGE SYSTEM" MEANS COMMERCIALY
16 AVAILABLE TECHNOLOGY THAT IS CAPABLE OF RETAINING ELECTRICITY,
17 STORING THE ENERGY FOR A PERIOD OF TIME, AND DELIVERING THE
18 ELECTRICITY AFTER STORAGE BY CHEMICAL, THERMAL, MECHANICAL, OR
19 OTHER MEANS. "ENERGY STORAGE SYSTEM" DOES NOT INCLUDE A SOLAR
20 ENERGY FACILITY, AS DEFINED IN SUBSECTION (3.5) OF THIS SECTION, OR
21 A WIND ENERGY FACILITY, AS DEFINED IN SUBSECTION (4) OF THIS
22 SECTION.

23 (2.7) "GEOTHERMAL ENERGY FACILITY" MEANS A NEW FACILITY
24 FIRST PLACED IN PRODUCTION ON OR AFTER JANUARY 1, 2010, THAT USES
25 REAL AND PERSONAL PROPERTY, INCLUDING BUT NOT LIMITED TO
26 LEASEHOLDS AND EASEMENTS, TO GENERATE AND DELIVER TO THE

1 INTERCONNECTION METER ANY SOURCE OF ELECTRICAL OR MECHANICAL
2 ENERGY BY HARNESSING THE HEAT ENERGY OF GROUNDWATER OR THE
3 GROUND AND THAT IS NOT PRIMARILY DESIGNED TO SUPPLY ELECTRICITY
4 FOR CONSUMPTION ON SITE.

5 (3) (a) "Public utility" means, for property tax years commencing
6 on or after January 1, 1987, every sole proprietorship, firm, limited
7 liability company, partnership, association, company, or corporation, and
8 the trustees or receivers thereof, whether elected or appointed, that does
9 business in this state as a railroad company, airline company, electric
10 company, small or low impact hydroelectric energy facility, geothermal
11 energy facility, biomass energy facility, wind energy facility, solar energy
12 facility, ENERGY STORAGE SYSTEM, CLEAN ENERGY RESOURCE, rural
13 electric company, telephone company, telegraph company, gas company,
14 gas pipeline carrier company, domestic water company selling at retail
15 except nonprofit domestic water companies, pipeline company, coal
16 slurry pipeline, or private car line company.

17 (b) On and after January 1, 2010, for purposes of this article 4,
18 "public utility" ~~shall~~ DOES not include any affiliate or subsidiary of a sole
19 proprietorship, firm, limited liability company, partnership, association,
20 company, or corporation of any type of company described in ~~paragraph~~
21 ~~(a) of this subsection (3)~~ SUBSECTION (3)(a) OF THIS SECTION that is not
22 doing business in the state primarily as a railroad company, airline
23 company, electric company, small or low impact hydroelectric energy
24 facility, geothermal energy facility, biomass energy facility, wind energy
25 facility, solar energy facility, ENERGY STORAGE SYSTEM, CLEAN ENERGY
26 RESOURCE, rural electric company, telephone company, telegraph
27 company, gas company, gas pipeline carrier company, domestic water

1 company selling at retail except nonprofit domestic water companies,
2 pipeline company, coal slurry pipeline, or private car line company.
3 Valuation and taxation of any such affiliate or subsidiary of a public
4 utility as defined in ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a)
5 OF THIS SECTION shall be assessed pursuant to article 5 of this title **39**.

6 (3.5) "Solar energy facility" means a new facility first placed in
7 production on or after January 1, 2009, that uses real and personal
8 property, including but not limited to one or more solar energy devices,
9 as defined in section 38-32.5-100.3 (2), ~~C.R.S.~~, leaseholds, and
10 easements, to generate and deliver to the interconnection meter any
11 source of electrical, thermal, or mechanical energy in excess of two
12 megawatts by harnessing the radiant energy of the sun, INCLUDING ANY
13 CONNECTED DEVICE FOR WHICH THE PRIMARY PURPOSE IS TO STORE
14 ENERGY, and that is not primarily designed to supply electricity for
15 consumption on site.

16 (4) "Wind energy facility" means a new facility first placed in
17 production on or after January 1, 2006, that uses property, real and
18 personal, including one or more wind turbines, leaseholds, and easements,
19 to generate and deliver to the interconnection meter any source of
20 electrical or mechanical energy in excess of two megawatts by harnessing
21 the kinetic energy of the wind, INCLUDING ANY CONNECTED DEVICE FOR
22 WHICH THE PRIMARY PURPOSE IS TO STORE ENERGY.

23 **SECTION 2.** In Colorado Revised Statutes, 39-4-102, **amend**
24 (1)(e)(I)(A) and (1.5)(b)(IV); and **add** (1.5)(e) as follows:

25 **39-4-102. Valuation of public utilities - definition.** (1) The
26 administrator shall determine the actual value of the operating property
27 and plant of each public utility as a unit, giving consideration to the

1 following factors and assigning such weight to each of such factors as in
2 the administrator's judgment will secure a just value of such public utility
3 as a unit:

4 (e) (I) When determining the actual value of a renewable energy
5 facility that primarily produces more than two megawatts of alternating
6 current electricity, the administrator shall:

7 (A) Consider the additional incremental cost per kilowatt of the
8 construction of the renewable energy facility, TAKING INTO ACCOUNT THE
9 NAMEPLATE CAPACITY OF ANY ENERGY STORAGE SYSTEM IN ADDITION TO
10 GENERATION CAPACITY, over that of the construction cost of a comparable
11 nonrenewable energy facility, inclusive of the cost of all property required
12 to generate and deliver energy to the interconnection meter, that primarily
13 produces alternating current electricity to be an investment cost and shall
14 not include ~~such~~ THE additional incremental cost in the valuation of the
15 facility; and

16 (1.5) The administrator shall determine the actual value of a small
17 or low impact hydroelectric energy facility, a geothermal energy facility,
18 a biomass energy facility, a wind energy facility, or a solar energy facility
19 as follows:

20 (b) (IV) As used in this ~~paragraph (b)~~ SUBSECTION (1.5)(b)(IV),
21 "tax factor" means a factor annually established by the administrator. The
22 tax factor ~~shall be~~ IS a number that when applied to the selling price at the
23 interconnection meter results in approximately the same tax revenue over
24 a twenty-year period on a nominal dollar basis that would have been
25 collected using the cost basis method of taxation as determined by the
26 administrator for a renewable energy facility pursuant to ~~paragraph (c)~~ of
27 ~~subsection (1)~~ SUBSECTION (1)(e) of this section. For a renewable energy

1 facility that begins generating energy before January 1, 2012, the
2 administrator shall include only the cost of all property required to
3 generate and deliver renewable energy to the interconnection meter that
4 does not exceed the cost of property required to generate nonrenewable
5 energy. For a renewable energy facility that begins generating energy on
6 or after January 1, 2012, the administrator shall include only the cost of
7 all property required to generate, STORE, and deliver renewable energy to
8 the interconnection meter that does not exceed the cost of property
9 required to generate and deliver nonrenewable energy to the
10 interconnection meter.

11 (e) THE ADMINISTRATOR SHALL DETERMINE THE ACTUAL VALUE
12 OF AN ENERGY STORAGE SYSTEM OR CLEAN ENERGY RESOURCE IN A
13 MANNER SIMILAR TO THE METHOD USED FOR A SMALL OR LOW IMPACT
14 HYDROELECTRIC ENERGY FACILITY, A WIND ENERGY FACILITY, A
15 GEOTHERMAL ENERGY FACILITY, A BIOMASS ENERGY FACILITY, OR A
16 SOLAR ENERGY FACILITY UNDER SUBSECTION (1)(e) OF THIS SECTION AND
17 THIS SUBSECTION (1.5).

18 **SECTION 3. Act subject to petition - effective date.** This act
19 takes effect January 1, 2021; except that, if a referendum petition is filed
20 pursuant to section 1 (3) of article V of the state constitution against this
21 act or an item, section, or part of this act within the ninety-day period
22 after final adjournment of the general assembly, then the act, item,
23 section, or part will not take effect unless approved by the people at the
24 general election to be held in November 2020 and, in such case, will take
25 effect on the date of the official declaration of the vote thereon by the
26 governor.