

CHAPTER 125

GOVERNMENT - STATE

SENATE BILL 08-081

BY SENATOR(S) Schwartz, Bacon, Gibbs, Hagedorn, Keller, Morse, Romer, Tapia, Williams, Groff, Boyd, Shaffer, and Tupa; also REPRESENTATIVE(S) Madden, Carroll T., Merrifield, Frangas, Labuda, McFadyen, McGihon, Middleton, Solano, and Todd.

AN ACT**CONCERNING THE DUTIES OF THE COLORADO RENEWABLE ENERGY AUTHORITY.**

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

SECTION 1. Legislative declaration. (1) (a) The general assembly hereby finds and determines that:

(I) The Colorado renewable energy collaboratory, hereafter referred to as the "collaboratory", is a research collaboration consisting of the Colorado school of mines, Colorado state university, university of Colorado, and national renewable energy laboratory; and

(II) One of the primary goals of the collaboratory is to attract additional federal funding to Colorado for renewable energy research.

(b) The general assembly further finds and determines that:

(I) In order to encourage the commercialization of federally funded research, the federal Bayh-Dole Act, 35 U.S.C. sec. 200 et seq., as amended, and its implementing legislation, 37 CFR 401:

(A) Grant ownership of intellectual property resulting from federally funded research to the recipient institutions; and

(B) Require that royalty revenue from federally funded research be shared with the inventors and be used to support future research at the recipient institutions; and

(II) Institutions that violate these provisions of federal law are prohibited from

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

receiving federal research funding.

(c) The general assembly further finds and determines that:

(I) The provisions of section 24-47.5-102 (4), Colorado Revised Statutes, are in apparent conflict with these federal laws by suggesting that intellectual property created by researchers at the institutions of the collaboratory is owned by the state of Colorado and that a portion of the licensing fees earned from such discoveries must be paid to the state of Colorado;

(II) Funding for research at the collaboratory's Colorado center of biorefining and biofuels has been impeded due to this apparent conflict with federal law; and

(III) If this apparent conflict is not remedied, the institutions of the collaboratory may be ineligible to receive federal funding for renewable energy research.

(2) Now, therefore, the general assembly hereby finds and declares that the provisions of section 24-47.5-102 (4), Colorado Revised Statutes, that conflict in practice with the provisions of the federal Bayh-Dole Act and inhibit the research activities of the authority, shall be repealed, and the reporting requirements of the authority, as described in section 24-47.5-102 (3) (c), Colorado Revised Statutes, shall be clarified accordingly.

SECTION 2. 24-47.5-101 (3) (b), Colorado Revised Statutes, is amended to read:

24-47.5-101. Renewable energy authority - creation - legislative declaration.

(3) (b) Until January 1, 2007, the board shall consist of one member appointed by the governor, with the consent of the senate, plus the following four ex officio members: The presidents of the Colorado school of mines, Colorado state university, and the university of Colorado, OR THEIR DESIGNEES, and the director of the national renewable energy laboratory, OR HIS OR HER DESIGNEE.

SECTION 3. 24-47.5-102 (2) (b), (3) (c), and (4), Colorado Revised Statutes, are amended to read:

24-47.5-102. Renewable energy authority - powers and duties. (2) The authority shall:

(b) Promote rapid transfer of new technologies developed by the consortium to the private sector ~~through technology licensing and other means~~ to attract and promote renewable energy businesses in Colorado;

(3) On or before March 1, 2007, and each March 1 thereafter, the authority shall submit a report to the business affairs and labor committee of the house of representatives and the business, labor, and technology committee of the senate, or any successor committees, summarizing the energy research projects that received funding under this article in the preceding calendar year. At a minimum, the report shall specify the following information with regard to each such project:

(c) The results achieved by the project, including ~~identifiable monetary returns~~

~~to the authority and to each principal person or entity associated with the project since the receipt of the funding~~ INTELLECTUAL PROPERTY, LICENSING AND COMMERCIALIZATION ACTIVITIES, AND ANY OTHER ECONOMIC BENEFITS TO THE STATE.

~~(4) Of any revenues received by the authority as a result of the licensing of any patent, trademark, or copyright or of any other technology transfer activity under paragraph (b) of subsection (2) of this section, fifty percent shall be retained by the authority for future use in accordance with this article and fifty percent shall be remitted to the state treasurer, who shall credit the same to the operational account of the severance tax trust fund created in section 39-29-109 (1) (a) (H), C.R.S., until an amount equal to all appropriations to date from the operational account have been repaid. Thereafter, seventy percent of such revenues shall be retained by the authority for future use in accordance with this article and thirty percent shall be remitted to the state treasurer, who shall credit the same to the operational account.~~

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 10, 2008