

CHAPTER 299

GOVERNMENT - STATE

HOUSE BILL 08-1350

BY REPRESENTATIVE(S) Madden, Borodkin, Carroll M., Fischer, Frangas, Green, Hodge, Kefalas, Kerr A., Labuda, Massey, McFadyen, Merrifield, Middleton, Peniston, Primavera, Rice, Riesberg, Romanoff, Solano, Stafford, Summers, Todd, and Rose; also SENATOR(S) Romer, Bacon, Boyd, Gibbs, Keller, Kester, Schwartz, Shaffer, Tupa, and Williams.

AN ACT**CONCERNING THE FACILITATION OF THE FINANCING OF RENEWABLE ENERGY.**

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

SECTION 1. 40-9.7-102 (2), Colorado Revised Statutes, is amended to read:

40-9.7-102. Legislative declaration. (2) The general assembly further finds and declares that the purpose of this article is to create the Colorado clean energy development authority and to endow the authority with powers sufficient to enable it to:

(a) Facilitate the production and consumption of clean energy; ~~and~~

(b) Increase the transmission and use of clean energy by financing and refinancing projects located within or outside the state for the production, transportation, transmission, and storage of clean energy, including pipelines, and related supporting infrastructure and interests therein; AND

(c) FACILITATE THE EFFICIENT USE OF ENERGY.

SECTION 2. 40-9.7-103, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

40-9.7-103. Definitions. As used in this article, unless the context otherwise requires:

(5.5) "ENERGY EFFICIENCY IMPROVEMENT" MEANS AN INSTALLATION OR MODIFICATION THAT IS DESIGNED TO REDUCE ENERGY CONSUMPTION IN RESIDENTIAL

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

OR COMMERCIAL BUILDINGS AND INCLUDES ANY OTHER MODIFICATION, INSTALLATION, OR REMODELING AUTHORIZED AS A UTILITY COST-SAVINGS MEASURE BY THE BOARD.

(13.5) "RENEWABLE ENERGY IMPROVEMENT" MEANS ANY FIXTURE, PRODUCT, SYSTEM, DEVICE, OR INTERACTING GROUP OF DEVICES INSTALLED BEHIND THE METER OF ANY RESIDENTIAL OR COMMERCIAL BUILDING THAT PRODUCES ENERGY FROM RENEWABLE RESOURCES, INCLUDING, BUT NOT LIMITED TO, PHOTOVOLTAIC SYSTEMS, SOLAR THERMAL SYSTEMS, SMALL WIND SYSTEMS, BIOMASS SYSTEMS, OR GEOTHERMAL SYSTEMS, AS MAY BE AUTHORIZED BY THE BOARD; EXCEPT THAT NO RENEWABLE ENERGY IMPROVEMENT SHALL BE AUTHORIZED THAT INTERFERES WITH A RIGHT HELD BY A PUBLIC UTILITY UNDER A CERTIFICATE ISSUED BY THE PUBLIC UTILITIES COMMISSION UNDER ARTICLE 5 OF THIS TITLE. THE PUBLIC UTILITIES COMMISSION SHALL HAVE PRIMARY JURISDICTION TO ADJUDICATE DISPUTES AS TO WHETHER A RENEWABLE ENERGY IMPROVEMENT INTERFERES WITH SUCH A RIGHT.

SECTION 3. 40-9.7-103 (10), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

40-9.7-103. Definitions. As used in this article, unless the context otherwise requires:

(10) (c) "PROJECT" ALSO MEANS ANY RENEWABLE ENERGY IMPROVEMENT OR ENERGY EFFICIENCY IMPROVEMENT.

SECTION 4. 29-3-103 (10) (k) and (10) (l), Colorado Revised Statutes, are amended, and the said 29-3-103 (10) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

29-3-103. Definitions. As used in this article, unless the context otherwise requires:

(10) "Project" means any land, building, or other improvement and all real or personal properties, and any undivided or other interest in any of the foregoing, except inventories and raw materials, whether or not in existence, suitable or used for or in connection with any of the following:

(k) Research, product-testing, and administrative facilities; ~~and~~

(l) Facilities for private and not-for-profit institutions of higher education; AND

(m) CAPITAL IMPROVEMENTS TO EXISTING RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL STRUCTURES TO RETROFIT SUCH STRUCTURES FOR SIGNIFICANT ENERGY SAVINGS OR INSTALLATION OF SOLAR OR OTHER ALTERNATIVE ELECTRICAL ENERGY-PRODUCING IMPROVEMENTS TO SERVE THAT STRUCTURE OR OTHER STRUCTURES ON CONTIGUOUS PROPERTY UNDER COMMON OWNERSHIP.

SECTION 5. 30-11-107 (1) (ii), Colorado Revised Statutes, is amended, and the said 30-11-107 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

30-11-107. Powers of the board. (1) The board of county commissioners of each county has power at any meeting:

(ii) To provide in the county budget for programs that support education and outreach on environmental sustainability AND FOR FINANCING CAPITAL IMPROVEMENTS FOR ENERGY EFFICIENCY RETROFITS AND THE INSTALLATION OF RENEWABLE ENERGY FIXTURES, AS DEFINED IN SECTION 30-11-107.3, FOR PRIVATE RESIDENCES AND COMMERCIAL PROPERTY within the county but THAT do not exempt the county from the requirements of any other statute;

(jj) TO ENCOURAGE HOMEOWNERS TO PARTICIPATE IN UTILITY DEMAND-SIDE MANAGEMENT PROGRAMS WHERE APPLICABLE.

SECTION 6. 30-11-107.3 (2) (b), Colorado Revised Statutes, is amended to read:

30-11-107.3. Incentives for installation of renewable energy fixtures - definitions. (2) For purposes of this section, unless the context otherwise requires:

(b) "Renewable energy fixture" means any fixture, product, system, device, or interacting group of devices INSTALLED BEHIND THE METER OF ANY RESIDENTIAL OR COMMERCIAL BUILDING that produces ~~electricity~~ ENERGY from renewable resources, including, but not limited to, photovoltaic systems, solar thermal systems, small wind systems, biomass systems, or geothermal systems.

SECTION 7. The introductory portion to 40-9.7-108 (1), Colorado Revised Statutes, is amended to read:

40-9.7-108. Colorado clean energy development authority fund - creation - authorization of projects. (1) The AUTHORITY SHALL CREATE A Colorado clean energy development authority fund ~~is hereby created in the state treasury~~ IN A FINANCIAL INSTITUTION WITHIN OR OUTSIDE THE STATE. The following moneys, together with any other moneys appropriated by the general assembly, shall be credited to the fund subject to agreements with the holders of bonds, financing agreements, contracts, agreements, or other obligations of the authority authorized by this article:

SECTION 8. Part 6 of article 20 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

30-20-601.5. Legislative declaration - inclusion of energy efficiency and renewable energy production projects in local improvement districts. (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(a) THE PRODUCTION AND EFFICIENT USE OF ENERGY WILL CONTINUE TO PLAY A CENTRAL ROLE IN THE FUTURE OF THIS STATE AND THE NATION AS A WHOLE; AND

(b) THE DEVELOPMENT, PRODUCTION, AND EFFICIENT USE OF RENEWABLE ENERGY WILL ADVANCE THE SECURITY, ECONOMIC WELL-BEING, AND PUBLIC AND ENVIRONMENTAL HEALTH OF THIS STATE, AS WELL AS CONTRIBUTING TO THE ENERGY INDEPENDENCE OF OUR NATION.

(2) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT THE INCLUSION OF ENERGY EFFICIENCY AND RENEWABLE ENERGY PRODUCTION PROJECTS FOR RESIDENTIAL AND COMMERCIAL USE IN LOCAL IMPROVEMENT DISTRICTS, AND POWERS CONFERRED UNDER THIS PART 6, AS WELL AS THE EXPENDITURES OF PUBLIC MONEYS MADE PURSUANT TO THIS ARTICLE, WILL SERVE A VALID PUBLIC PURPOSE AND THAT THE ENACTMENT OF THIS PART 6 IS EXPRESSLY DECLARED TO BE IN THE PUBLIC INTEREST.

SECTION 9. 30-20-602, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

30-20-602. Definitions. As used in this part 6, unless the context otherwise requires:

(2.8) "ENERGY EFFICIENCY IMPROVEMENT" MEANS AN INSTALLATION OR MODIFICATION THAT IS DESIGNED TO REDUCE ENERGY CONSUMPTION IN RESIDENTIAL OR COMMERCIAL BUILDINGS AND INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

(a) INSULATION IN WALLS, ROOFS, FLOORS, AND FOUNDATIONS AND IN HEATING AND COOLING DISTRIBUTION SYSTEMS;

(b) STORM WINDOWS AND DOORS, MULTIGLAZED WINDOWS AND DOORS, HEAT-ABSORBING OR HEAT-REFLECTIVE GLAZED AND COATED WINDOW AND DOOR SYSTEMS, ADDITIONAL GLAZING, REDUCTIONS IN GLASS AREA, AND OTHER WINDOW AND DOOR SYSTEM MODIFICATIONS THAT REDUCE ENERGY CONSUMPTION;

(c) AUTOMATIC ENERGY CONTROL SYSTEMS;

(d) HEATING, VENTILATING, OR AIR CONDITIONING AND DISTRIBUTION SYSTEM MODIFICATIONS OR REPLACEMENTS IN BUILDINGS OR CENTRAL PLANTS;

(e) CAULKING AND WEATHERSTRIPPING;

(f) REPLACEMENT OR MODIFICATION OF LIGHTING FIXTURES TO INCREASE THE ENERGY EFFICIENCY OF THE SYSTEM WITHOUT INCREASING THE OVERALL ILLUMINATION OF A RESIDENTIAL OR COMMERCIAL BUILDING UNLESS SUCH INCREASE IN ILLUMINATION IS NECESSARY TO CONFORM TO THE APPLICABLE BUILDING CODE FOR THE PROPOSED LIGHTING SYSTEM;

(g) ENERGY RECOVERY SYSTEMS;

(h) DAYLIGHTING SYSTEMS; AND

(i) ANY OTHER MODIFICATION, INSTALLATION, OR REMODELING APPROVED AS A UTILITY COST-SAVINGS MEASURE BY THE BOARD.

(4.7) "RENEWABLE ENERGY IMPROVEMENT" MEANS A FIXTURE, PRODUCT, SYSTEM, DEVICE, OR INTERACTING GROUP OF DEVICES INSTALLED BEHIND THE METER OF ANY RESIDENTIAL AND COMMERCIAL BUILDING THAT PRODUCES ENERGY FROM RENEWABLE RESOURCES, INCLUDING, BUT NOT LIMITED TO, PHOTOVOLTAIC

SYSTEMS, SOLAR THERMAL SYSTEMS, SMALL WIND SYSTEMS, BIOMASS SYSTEMS, OR GEOTHERMAL SYSTEMS, AS MAY BE INCLUDED IN THE APPROVAL OF THE DISTRICT BY THE BOARD; EXCEPT THAT NO RENEWABLE ENERGY IMPROVEMENT SHALL BE AUTHORIZED THAT INTERFERES WITH A RIGHT HELD BY A PUBLIC UTILITY UNDER A CERTIFICATE ISSUED BY THE PUBLIC UTILITIES COMMISSION UNDER ARTICLE 5 OF TITLE 40, C.R.S. THE PUBLIC UTILITIES COMMISSION SHALL HAVE PRIMARY JURISDICTION TO ADJUDICATE DISPUTES AS TO WHETHER A RENEWABLE ENERGY IMPROVEMENT INTERFERES WITH SUCH A RIGHT.

SECTION 10. 30-20-603 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

30-20-603. Improvements authorized - how instituted - conditions.

(1) (e) THE IMPROVEMENTS AUTHORIZED BY THIS PART 6 MAY INCLUDE, WHERE SPECIFIED OR GENERALLY PROVIDED FOR IN THE RESOLUTION OF THE BOARD APPROVING THE DISTRICT, ANY RENEWABLE ENERGY IMPROVEMENT OR ENERGY EFFICIENCY IMPROVEMENT TO ANY RESIDENTIAL OR COMMERCIAL PROPERTY WITHIN THE DISTRICT.

SECTION 11. 30-20-603, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

30-20-603. Improvements authorized - how instituted - conditions.

(11.5) ANY OTHER PROVISION OF THIS PART 6 NOTWITHSTANDING, THE BOARD MAY INITIATE AN IMPROVEMENT DISTRICT FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING IMPROVEMENTS OF A CHARACTER AUTHORIZED BY PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION. ANY SUCH DISTRICT SHALL INCLUDE ONLY PROPERTY FOR WHICH THE OWNER HAS EXECUTED A CONTRACT OR AGREEMENT CONSENTING TO THE INCLUSION OF SUCH PROPERTY WITHIN THE DISTRICT, AND SUCH CONSENT MAY OCCUR SUBSEQUENT TO THE ADOPTION OF THE RESOLUTION OF THE BOARD FORMING THE DISTRICT. THE INCLUSION OF SUCH PROPERTY WITHIN THE DISTRICT SUBSEQUENT TO THE ADOPTION OF THE RESOLUTION OF THE BOARD FORMING THE DISTRICT MAY BE MADE BY THE ADOPTION OF A SUPPLEMENTAL OR AMENDING RESOLUTION OF THE BOARD. FOR DISTRICTS FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING RENEWABLE ENERGY IMPROVEMENTS OR ENERGY EFFICIENCY IMPROVEMENTS, THE PROVISIONS OF SUBSECTIONS (4) AND (5) OF THIS SECTION CONCERNING COMPETITIVE BIDDING AND PRELIMINARY PLANS AND SPECIFICATIONS, OF SECTION 30-20-601 CONCERNING CONSTRUCTION UNDER THE DIRECTION OF COUNTY OFFICERS, OF SECTION 30-20-622 CONCERNING CONTRACTS FOR CONSTRUCTION, AND OF SECTION 30-20-623 CONCERNING CONTRACT PROVISIONS SHALL NOT APPLY. FOR SUCH DISTRICTS, THE OWNER OF PROPERTY WITHIN A DISTRICT MAY ARRANGE IMPROVEMENTS THAT QUALIFY PURSUANT TO THE RESOLUTION OF THE BOARD AUTHORIZING IMPROVEMENTS FOR THE DISTRICT AND MAY OBTAIN FINANCING FOR SAID IMPROVEMENTS FROM THE DISTRICT THROUGH THE PROCESS SET FORTH IN THE RESOLUTION FORMING THE DISTRICT.

SECTION 12. 30-20-604, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

30-20-604. Cost assessed in accordance with benefits. (4) ANY DISTRICT

FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING IMPROVEMENTS AS AUTHORIZED IN SECTION 30-20-603 (11.5) SHALL ASSESS THE COSTS OF THE IMPROVEMENTS TO EACH PROPERTY WHOSE OWNER HAS ENTERED INTO A CONTRACT OR AGREEMENT FOR THE IMPROVEMENTS. THE CONTRACTS AND AGREEMENTS ENTERED INTO WITH THE OWNER OF PROPERTY, AS AUTHORIZED BY THE BOARD, SHALL BE CONCLUSIVE REGARDING THE SPECIAL BENEFIT TO THE PROPERTY AND THE AMOUNT THAT MAY BE ASSESSED AGAINST THE PROPERTY.

SECTION 13. 30-20-606, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

30-20-606. Determination of special benefits - factors considered. (2) AS USED IN CONNECTION WITH ANY DISTRICT FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING IMPROVEMENTS AS AUTHORIZED IN SECTION 30-20-603 (11.5), THE TERM "BENEFIT" SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY ACKNOWLEDGED VALUE SET FORTH IN THE CONTRACTS AND AGREEMENTS ENTERED INTO BY THE OWNER OF THE ASSESSED PROPERTY.

SECTION 14. 30-20-608, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

30-20-608. Notice of apportionment. (2) ANY DISTRICT FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING IMPROVEMENTS AS AUTHORIZED IN SECTION 30-20-603 (11.5) SHALL NOT BE REQUIRED TO PROVIDE A NOTICE OF APPORTIONMENT BY PUBLICATION; RATHER, SUCH NOTICE, IF ANY, MAY BE PROVIDED IN THE TIME AND MANNER SET FORTH IN THE CONTRACT OR AGREEMENT ENTERED INTO FOR EACH PROPERTY INCLUDED IN THE DISTRICT.

SECTION 15. 30-20-610, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

30-20-610. Assessment constitutes a lien - filing with county clerk and recorder - corrections. (4) TO PROVIDE FOR UNANTICIPATED INCREASES IN THE COSTS OF IMPROVEMENTS, THE AMOUNT OF ANY ASSESSMENT IMPOSED BEFORE THE COMPLETION OF THE RELATED IMPROVEMENTS MAY BE INCREASED TO A TOTAL AMOUNT NOT IN EXCESS OF THE SPECIAL BENEFIT CONFERRED UPON THE AFFECTED PROPERTY IF, NOT MORE THAN NINETY DAYS FOLLOWING THE COMPLETION OF SUCH IMPROVEMENTS, THE BOARD GIVES NOTICE OF ITS INTENT TO CONSIDER THE AMENDMENT OF SUCH ASSESSMENT, STATING THE TIME AND PLACE THAT A PUBLIC HEARING SHALL BE HELD THEREON, AND HOLDS SUCH PUBLIC HEARING, IN THE SAME MANNER AS PROVIDED FOR HEARINGS HELD PURSUANT TO SECTIONS 30-20-608 AND 30-20-609. AT THE CONCLUSION OF SUCH PUBLIC HEARING, THE BOARD MAY DETERMINE WHETHER TO AMEND ONE OR MORE ASSESSMENTS WITHIN A DISTRICT. ANY SUCH AMENDMENT SHALL TAKE EFFECT AS OF THE DATE OF THE ORIGINAL ASSESSMENT.

(5) IF, AS THE RESULT OF ANY SUBDIVISION, RESUBDIVISION, VACATION OF RIGHT-OF-WAY, OR OTHER ACTION TAKEN SUBSEQUENT TO THE ADOPTION OF THE ASSESSMENT RESOLUTION, ANY NEW LOT OR PARCEL IS CREATED WITHIN A DISTRICT, THE BOARD MAY, WITHOUT A PUBLIC HEARING AND WITH THE CONSENT OF THE OWNER OF THE NEW LOT OR PARCEL, MODIFY THE ASSESSMENT RESOLUTION TO

REAPPORTION ALL OR ANY PART OF THE TOTAL AMOUNT ASSESSED IN THE DISTRICT TO SUCH NEW LOT OR PARCEL.

SECTION 16. 30-20-612, Colorado Revised Statutes, is amended to read:

30-20-612. When assessments payable - installments. All special assessments for local improvements shall be due and payable within thirty days after the effective date of the assessing resolution without demand, but all such assessments may be paid, at the election of the owner, in installments with interest as provided in section 30-20-614. ALL SPECIAL ASSESSMENTS FOR LOCAL IMPROVEMENTS AUTHORIZED IN SECTION 30-20-603 (11.5) MAY BE DUE AND PAYABLE AT SUCH ALTERNATE TIME OR TIMES AS SET FORTH IN THE ASSESSING RESOLUTION.

SECTION 17. 30-20-613, Colorado Revised Statutes, is amended to read:

30-20-613. Effect of payment in installments. Failure to pay the whole assessment within said period of thirty days shall be conclusively considered and held to be an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. All persons so electing to pay in installments shall be conclusively held and considered as consenting to said improvements. Such election shall be conclusively held and considered as a waiver of any right to question the power or jurisdiction of the county to construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings, the validity or the correctness of the assessments, or the validity of the lien thereof; EXCEPT THAT, WITH RESPECT TO LOCAL IMPROVEMENTS AUTHORIZED IN SECTION 30-20-603 (11.5), THE OWNER FOR EACH PROPERTY INCLUDED IN THE DISTRICT SHALL RETAIN ALL RIGHTS OTHERWISE EXISTING BY CONTRACT OR BY LAW AGAINST PARTIES OTHER THAN THE COUNTY WITH RESPECT TO THE FINANCED ENERGY EFFICIENCY IMPROVEMENT OR RENEWABLE ENERGY IMPROVEMENT.

SECTION 18. 30-20-614, Colorado Revised Statutes, is amended to read:

30-20-614. How installments paid - interest. In case of such election to pay in installments, the assessments shall be payable in two or more installments of principal, the first of which installments shall be payable as prescribed by the board in not more than five years and the last in not more than twenty years, with interest in all cases on the unpaid principal. The number and amounts of payment of installments, the period of payment, and the rate and times of payment of interest shall be determined by the board and set forth in the assessing resolution. The times of payment of installments shall be the same as the times of payment for installments of property taxes as specified in section 39-10-104.5 (2), C.R.S.; EXCEPT THAT ALL SPECIAL ASSESSMENTS FOR LOCAL IMPROVEMENTS AUTHORIZED IN SECTION 30-20-603 (11.5) MAY BE PAYABLE AT SUCH ALTERNATE TIMES AS PROVIDED BY THE BOARD IN THE ASSESSING RESOLUTION AND THE BOARD MAY ENTER INTO AGREEMENTS WITH THIRD PARTIES TO ASSIST THE TREASURER WITH THE ADMINISTRATION AND COLLECTION OF SUCH INSTALLMENTS.

SECTION 19. 30-20-619 (1) and (2), Colorado Revised Statutes, are amended, and the said 30-20-619 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

30-20-619. Issuing bonds - property specially benefited. (1) For the purpose of paying all or such portion of the cost of any improvement constructed or acquired under the provisions of this part 6 as may be assessed against the property specially benefited and not paid by the sales tax authorized by section 30-20-604.5 or by the county, special assessment bonds of the county may be issued, of such date, in such form, and on such terms, including, without limitation, provisions for their sale, payment, and redemption, as may be prescribed by the board, bearing the name of the street or district improved and payable in a sufficient period of years after SUCH date to cover the period of payment provided, and in convenient denominations. All such bonds shall be issued upon estimates approved by the board, and the county treasurer shall preserve a record of the same in a suitable book kept for that purpose. All such bonds shall be subscribed by the ~~chairman~~ CHAIR of the board, countersigned by the county treasurer, with the county seal thereto affixed, and attested by the county clerk and recorder. Such bonds shall be payable out of the moneys collected on account of the assessments made for said improvements, FROM RESERVE ACCOUNTS, IF ANY, ESTABLISHED TO SECURE THE PAYMENT OF SUCH BONDS, AND FROM ANY OTHER LEGALLY AVAILABLE MONEYS. All moneys collected from such assessments for any improvement shall be applied to the payment of the bonds issued, until payment in full is made of all the bonds, both principal and interest, OR TO FUND OR REPLENISH RESERVE ACCOUNTS, IF ANY, ESTABLISHED TO SECURE THE PAYMENT OF SUCH BONDS. The bonds may be sold, under such terms and conditions as are established by the board, in such amounts as will be sufficient to pay for the cost of the improvements.

(2) Whenever three-fourths of the bonds issued pursuant to subsection (1) of this section for an improvement constructed under ~~the provisions of this part 6~~ have been paid and cancelled and for any reason ~~the~~ ANY remaining assessments are not paid in time to pay the remaining bonds for the district and the interest due thereon, the county ~~shall~~ MAY pay, ~~if so provided in the resolution authorizing issuance of the bonds~~ FROM LEGALLY AVAILABLE MONEYS, the bonds when due and the interest due thereon and ~~shall~~ MAY reimburse itself by collecting the unpaid assessments due the district.

(8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 6, ANY DISTRICT FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING IMPROVEMENTS AS AUTHORIZED IN SECTION 30-20-603 (11.5) MAY BE AUTHORIZED TO ISSUE ONE OR MORE SERIES OF BONDS, AND BONDS OF ANY SUCH DISTRICT MAY BE PAYABLE FROM THE ASSESSMENTS LEVIED PURSUANT TO ONE OR MORE ASSESSMENT RESOLUTIONS.

SECTION 20. 31-15-711 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

31-15-711. Other public improvements. (1) The governing body of each municipality has the power:

(j) TO PROVIDE IN THE MUNICIPAL BUDGET FOR PROGRAMS THAT SUPPORT EDUCATION AND OUTREACH ON ENVIRONMENTAL SUSTAINABILITY AND FOR FINANCING CAPITAL IMPROVEMENTS FOR ENERGY EFFICIENCY RETROFITS AND THE INSTALLATION OF RENEWABLE ENERGY FIXTURES, AS DEFINED IN SECTION 30-11-107.3, FOR PRIVATE RESIDENCES AND COMMERCIAL PROPERTY WITHIN THE

MUNICIPALITY BUT THAT DO NOT EXEMPT THE MUNICIPALITY FROM THE REQUIREMENTS OF ANY OTHER STATUTE;

(k) TO ENCOURAGE HOMEOWNERS TO PARTICIPATE IN UTILITY DEMAND-SIDE MANAGEMENT PROGRAMS WHERE APPLICABLE.

SECTION 21. Part 5 of article 25 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-25-500.2. Legislative declaration - energy efficiency and renewable energy production projects. (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(a) THE PRODUCTION AND EFFICIENT USE OF ENERGY WILL CONTINUE TO PLAY A CENTRAL ROLE IN THE FUTURE OF THIS STATE AND THE NATION AS A WHOLE; AND

(b) THE DEVELOPMENT, PRODUCTION, AND EFFICIENT USE OF RENEWABLE ENERGY WILL ADVANCE THE SECURITY, ECONOMIC WELL-BEING, AND PUBLIC AND ENVIRONMENTAL HEALTH OF THIS STATE, AS WELL AS CONTRIBUTING TO THE ENERGY INDEPENDENCE OF OUR NATION.

(2) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT THE INCLUSION OF ENERGY EFFICIENCY AND RENEWABLE ENERGY PRODUCTION PROJECTS FOR RESIDENTIAL AND COMMERCIAL USE IN SPECIAL IMPROVEMENT DISTRICTS, AND POWERS CONFERRED UNDER THIS PART 5, AS WELL AS THE EXPENDITURES OF PUBLIC MONEYS MADE PURSUANT TO THIS PART 5, WILL SERVE A VALID PUBLIC PURPOSE AND THAT THE ENACTMENT OF THIS PART 5 IS EXPRESSLY DECLARED TO BE IN THE PUBLIC INTEREST.

SECTION 22. 31-25-501, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

31-25-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1.9) "ENERGY EFFICIENCY IMPROVEMENT" MEANS AN INSTALLATION OR MODIFICATION THAT IS DESIGNED TO REDUCE ENERGY CONSUMPTION IN RESIDENTIAL OR COMMERCIAL BUILDINGS AND INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

(a) INSULATION IN WALLS, ROOFS, FLOORS, AND FOUNDATIONS AND IN HEATING AND COOLING DISTRIBUTION SYSTEMS;

(b) STORM WINDOWS AND DOORS, MULTIGLAZED WINDOWS AND DOORS, HEAT-ABSORBING OR HEAT-REFLECTIVE GLAZED AND COATED WINDOW AND DOOR SYSTEMS, ADDITIONAL GLAZING, REDUCTIONS IN GLASS AREA, AND OTHER WINDOW AND DOOR SYSTEM MODIFICATIONS THAT REDUCE ENERGY CONSUMPTION;

(c) AUTOMATIC ENERGY CONTROL SYSTEMS;

(d) HEATING, VENTILATING, OR AIR CONDITIONING AND DISTRIBUTION SYSTEM

MODIFICATIONS OR REPLACEMENTS IN BUILDINGS OR CENTRAL PLANTS;

(e) CAULKING AND WEATHERSTRIPPING;

(f) REPLACEMENT OR MODIFICATION OF LIGHTING FIXTURES TO INCREASE THE ENERGY EFFICIENCY OF THE SYSTEM WITHOUT INCREASING THE OVERALL ILLUMINATION OF A RESIDENTIAL OR COMMERCIAL BUILDING UNLESS SUCH INCREASE IN ILLUMINATION IS NECESSARY TO CONFORM TO THE APPLICABLE BUILDING CODE FOR THE PROPOSED LIGHTING SYSTEM;

(g) ENERGY RECOVERY SYSTEMS;

(h) DAYLIGHTING SYSTEMS; AND

(i) ANY OTHER MODIFICATION, INSTALLATION, OR REMODELING APPROVED AS A UTILITY COST-SAVINGS MEASURE BY THE GOVERNING BODY; EXCEPT THAT NO RENEWABLE ENERGY IMPROVEMENT SHALL BE AUTHORIZED THAT INTERFERES WITH A RIGHT HELD BY A PUBLIC UTILITY UNDER A CERTIFICATE ISSUED BY THE PUBLIC UTILITIES COMMISSION UNDER ARTICLE 5 OF TITLE 40, C.R.S. THE PUBLIC UTILITIES COMMISSION SHALL HAVE PRIMARY JURISDICTION TO ADJUDICATE DISPUTES AS TO WHETHER A RENEWABLE ENERGY IMPROVEMENT INTERFERES WITH SUCH A RIGHT.

(4) "RENEWABLE ENERGY IMPROVEMENT" MEANS A FIXTURE, PRODUCT, SYSTEM, DEVICE, OR INTERACTING GROUP OF DEVICES INSTALLED BEHIND THE METER OF ANY RESIDENTIAL OR COMMERCIAL BUILDING THAT PRODUCES ENERGY FROM RENEWABLE RESOURCES, INCLUDING, BUT NOT LIMITED TO, PHOTOVOLTAIC SYSTEMS, SOLAR THERMAL SYSTEMS, SMALL WIND SYSTEMS, BIOMASS SYSTEMS, OR GEOTHERMAL SYSTEMS, AS MAY BE AUTHORIZED BY THE GOVERNING BODY.

SECTION 23. 31-25-502, Colorado Revised Statutes, is amended to read:

31-25-502. Powers to make local improvements. (1) A district may be formed in accordance with the requirements of this part 5 for the purpose of constructing, installing, or acquiring any public improvement so long as the municipality that forms the district is authorized to provide such improvement under the municipality's home rule charter or ordinance passed pursuant to such charter, if any, or the laws of this state. Public improvements shall not include any facility identified in section 30-20-101 (8) or (9), C.R.S.

(2) THE IMPROVEMENTS AUTHORIZED BY THIS PART 5 MAY INCLUDE, WHERE SO SPECIFIED OR GENERALLY PROVIDED FOR IN THE ORDINANCE OF THE GOVERNING BODY FORMING THE DISTRICT, ANY RENEWABLE ENERGY IMPROVEMENT OR ENERGY EFFICIENCY IMPROVEMENT TO ANY RESIDENTIAL OR COMMERCIAL PROPERTY WITHIN THE DISTRICT.

(3) It is lawful for any municipality to construct any of the local improvements mentioned in this part 5 and to assess the cost thereof, wholly or in part, upon the property especially benefited by such improvements. The improvements shall be authorized by ordinance duly adopted and shall be constructed under the direction of the municipal engineer or other officer having similar duties or under the direction of the governing body in accordance with plans and specifications adopted

by the governing body; EXCEPT THAT FOR DISTRICTS FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING RENEWABLE ENERGY IMPROVEMENTS OR ENERGY EFFICIENCY IMPROVEMENTS, THE OWNER OF PROPERTY WITHIN A DISTRICT MAY ARRANGE IMPROVEMENTS THAT QUALIFY PURSUANT TO THE ORDINANCE OF THE GOVERNING BODY AUTHORIZING IMPROVEMENTS FOR THE DISTRICT AND MAY OBTAIN FINANCING FOR SAID IMPROVEMENTS FROM THE DISTRICT THROUGH THE PROCESS SET FORTH IN THE ORDINANCE FORMING THE DISTRICT.

SECTION 24. 31-25-503 (9), Colorado Revised Statutes, is amended to read:

31-25-503. What improvements may be made - conditions. (9) (a) Any other provision of this part 5 to the contrary notwithstanding, the governing body may create a district for the purpose of acquiring existing improvements of a character authorized by this part 5, in which case, the provisions of this part 5 concerning construction of improvements by the municipality, competitive bidding, and preliminary plans and specifications shall not apply.

(b) ANY OTHER PROVISION OF THIS PART 5 NOTWITHSTANDING, THE GOVERNING BODY MAY CREATE AN IMPROVEMENT DISTRICT FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING RENEWABLE ENERGY IMPROVEMENTS AND ENERGY EFFICIENCY IMPROVEMENTS OF A CHARACTER AUTHORIZED BY SECTION 31-25-502 (2). ANY SUCH DISTRICT SHALL INCLUDE ONLY PROPERTY FOR WHICH THE OWNER HAS EXECUTED A CONTRACT OR AGREEMENT CONSENTING TO THE INCLUSION OF SUCH PROPERTY WITHIN THE DISTRICT, AND SUCH CONSENT MAY OCCUR SUBSEQUENT TO THE ADOPTION OF THE ORDINANCE OF THE GOVERNING BODY FORMING THE DISTRICT. THE INCLUSION OF SUCH PROPERTY WITHIN THE DISTRICT SUBSEQUENT TO THE ADOPTION OF THE ORDINANCE OF THE GOVERNING BODY FORMING THE DISTRICT MAY BE MADE BY THE ADOPTION OF A SUPPLEMENTAL OR AMENDING ORDINANCE OR RESOLUTION OF THE GOVERNING BODY. FOR DISTRICTS FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING RENEWABLE ENERGY IMPROVEMENTS OR ENERGY EFFICIENCY IMPROVEMENTS, THE PROVISIONS OF SUBSECTIONS (2) AND (3) OF THIS SECTION CONCERNING PRELIMINARY ORDERS, COMPETITIVE BIDDING, AND PRELIMINARY PLANS AND SPECIFICATIONS, OF SECTION 31-25-516 CONCERNING CONTRACTS FOR CONSTRUCTION, AND OF SECTION 31-25-518 CONCERNING CONTRACT PROVISIONS SHALL NOT APPLY.

SECTION 25. 31-25-507, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-25-507. Determination of special benefits - factors considered. (2) AS USED IN CONNECTION WITH ANY DISTRICT FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING IMPROVEMENTS AS AUTHORIZED IN SECTION 31-25-502 (2), THE TERM "BENEFIT" SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY ACKNOWLEDGED VALUE SET FORTH IN THE CONTRACTS AND AGREEMENTS ENTERED INTO BY THE OWNER OF THE ASSESSED PROPERTY.

SECTION 26. 31-25-513, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-25-513. Cost assessed in accordance with benefits. (4) ANY DISTRICT

FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING IMPROVEMENTS AS AUTHORIZED IN SECTION 31-25-502 (2) SHALL ASSESS THE COSTS OF THE IMPROVEMENTS TO EACH PROPERTY WHOSE OWNER HAS ENTERED INTO A CONTRACT OR AGREEMENT FOR THE IMPROVEMENTS. THE CONTRACTS AND AGREEMENTS ENTERED INTO WITH THE OWNER OF PROPERTY, AS AUTHORIZED BY THE GOVERNING BODY, SHALL BE CONCLUSIVE REGARDING THE SPECIAL BENEFIT TO THE PROPERTY AND THE AMOUNT THAT MAY BE ASSESSED AGAINST THE PROPERTY.

SECTION 27. 31-25-520, Colorado Revised Statutes, is amended to read:

31-25-520. Notice of hearing on assessments. (1) The clerk shall give notice that the assessment roll has been completed and of a hearing on the assessment roll by publication in an issue of a newspaper of general circulation in the municipality, the publication to be at least fifteen days prior to the date of hearing. The same notice of the hearing shall be mailed by first-class mail to each property owner to be assessed for the cost of the improvements who is included within the district. The mailed notice shall be made on or about the date of the publication of the notice of hearing. The notices shall specify: The whole cost of the improvement; the portion, if any, to be paid by such municipality; the share apportioned to each lot or tract of land; that any complaints or objections ~~which~~ THAT may be made in writing by the property owners or any citizen to the governing body, and filed in writing on or prior to the date of the hearing, will be heard and determined by the governing body before the passage of any ordinance assessing the cost of said improvements; and the date when and the place where such complaints or objections will be heard.

(2) ANY DISTRICT FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING IMPROVEMENTS AS AUTHORIZED IN SECTION 31-25-502 (2) SHALL NOT BE REQUIRED TO PROVIDE A NOTICE OF THE HEARING ON ASSESSMENTS BY PUBLICATION; RATHER, SUCH NOTICE, IF ANY, MAY BE PROVIDED IN THE TIME AND MANNER SET FORTH IN THE CONTRACT OR AGREEMENT ENTERED INTO BY THE OWNER FOR EACH PROPERTY INCLUDED IN THE DISTRICT.

SECTION 28. 31-25-522, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

31-25-522. Assessment of a lien - filing with county clerk and recorder - corrections. (4) TO PROVIDE FOR UNANTICIPATED INCREASES IN THE COSTS OF IMPROVEMENTS, THE AMOUNT OF ANY ASSESSMENT IMPOSED BEFORE THE COMPLETION OF THE RELATED IMPROVEMENTS MAY BE INCREASED TO A TOTAL AMOUNT NOT IN EXCESS OF THE SPECIAL BENEFIT CONFERRED UPON THE AFFECTED PROPERTY IF, NOT MORE THAN NINETY DAYS FOLLOWING THE COMPLETION OF SUCH IMPROVEMENTS, THE GOVERNING BODY GIVES NOTICE OF ITS INTENT TO CONSIDER THE AMENDMENT OF SUCH ASSESSMENT, STATING THE TIME AND PLACE THAT A PUBLIC HEARING SHALL BE HELD THEREON, AND HOLDS SUCH PUBLIC HEARING, IN THE SAME MANNER AS PROVIDED FOR HEARINGS HELD PURSUANT TO SECTIONS 31-25-520 AND 31-25-521. AT THE CONCLUSION OF SUCH PUBLIC HEARING, THE GOVERNING BODY MAY DETERMINE WHETHER TO AMEND ONE OR MORE ASSESSMENTS WITHIN A DISTRICT. ANY SUCH AMENDMENT SHALL TAKE EFFECT AS OF THE DATE OF THE ORIGINAL ASSESSMENT.

(5) IF, AS THE RESULT OF ANY SUBDIVISION, RESUBDIVISION, VACATION OF

RIGHT-OF-WAY, OR OTHER ACTION TAKEN SUBSEQUENT TO THE ADOPTION OF THE ASSESSMENT ORDINANCE, ANY NEW LOT OR PARCEL IS CREATED WITHIN A DISTRICT, THE GOVERNING BODY MAY, WITHOUT A PUBLIC HEARING AND WITH THE CONSENT OF THE OWNER OF THE NEW LOT OR PARCEL, MODIFY THE ASSESSMENT ORDINANCE TO REAPPORTION ALL OR ANY PART OF THE TOTAL AMOUNT ASSESSED IN THE DISTRICT TO SUCH NEW LOT OR PARCEL.

SECTION 29. 31-25-524, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-25-524. Payment - assessment roll returned. (4) ALL SPECIAL ASSESSMENTS FOR LOCAL IMPROVEMENTS AUTHORIZED IN SECTION 31-25-502 (2) MAY BE DUE AND PAYABLE AT SUCH ALTERNATE TIME OR TIMES AS SET FORTH IN THE ASSESSING ORDINANCE.

SECTION 30. 31-25-526 (1), Colorado Revised Statutes, is amended to read:

31-25-526. Collection of assessment payments - by municipal treasurer - by county treasurer. (1) The governing body may, by ordinance, direct the municipal treasurer to collect any amount payable as an assessment pursuant to this part 5 OR AUTHORIZE THE MUNICIPAL TREASURER OR OTHER APPROPRIATE MUNICIPAL OFFICIAL TO ENTER INTO CONTRACTS WITH THIRD PARTIES FOR ASSISTANCE IN THE ADMINISTRATION AND COLLECTION OF ASSESSMENTS. If the governing body does not direct, by ordinance, that assessment payments be collected by the municipal treasurer, then such payments shall be collected by the county treasurer.

SECTION 31. 31-25-527, Colorado Revised Statutes, is amended to read:

31-25-527. When assessments payable - installments. All special assessments for local improvements shall be due and payable within thirty days after the final publication of the assessing ordinance without demand; but all such assessments may be paid, at the election of the owner, in installments with interest as provided in section 31-25-528. ALL SPECIAL ASSESSMENTS FOR LOCAL IMPROVEMENTS AUTHORIZED IN SECTION 31-25-502 (2) MAY BE DUE AND PAYABLE AT SUCH ALTERNATE TIME OR TIMES AS SET FORTH IN THE ASSESSING ORDINANCE.

SECTION 32. 31-25-529, Colorado Revised Statutes, is amended to read:

31-25-529. Effect of payment in installments. Failure to pay the whole assessment within said period of thirty days shall be conclusively considered to be an election on the part of all persons interested, whether under disability or otherwise, to pay in installments. All persons so electing to pay in installments shall be conclusively considered to have consented to said improvements. Such election shall be conclusively considered to be a waiver of any right to question the power or jurisdiction of the municipality to construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings, the validity or the correctness of the assessments, or the validity of the lien thereof; EXCEPT THAT WITH RESPECT TO LOCAL IMPROVEMENTS AUTHORIZED IN SECTION 31-25-502 (2), THE OWNER FOR EACH PROPERTY INCLUDED IN THE DISTRICT SHALL RETAIN ALL RIGHTS OTHERWISE EXISTING BY CONTRACT OR BY LAW AGAINST PARTIES OTHER THAN THE COUNTY WITH RESPECT TO THE FINANCED ENERGY EFFICIENCY IMPROVEMENT OR RENEWABLE

ENERGY IMPROVEMENT.

SECTION 33. 31-25-534 (1), Colorado Revised Statutes, is amended, and the said 31-25-534 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-25-534. Issuing bonds - property specially benefited. (1) For the purpose of paying all or such portion of the cost of any improvement constructed under ~~the provisions of this part 5~~ as may be assessed against the property specially benefited, special assessment bonds of the municipality may be issued of such date, in such form, and on such terms, including, without limitation, provisions for their sale, payment, and redemption, as may be prescribed by the governing body, bearing the name of the street, alley, or district improved and payable in a sufficient period of years after SUCH date to cover the period of payment provided and in convenient denominations. All such bonds shall be issued upon estimates approved by the governing body, and the municipal treasurer shall preserve a record of the same in a suitable book kept for that purpose. All such bonds shall be subscribed by the mayor, countersigned by the municipal treasurer, with the corporate seal thereto affixed, and attested by the clerk. Such bonds shall be payable out of the moneys collected on account of the assessments made for said improvements, FROM RESERVE ACCOUNTS, IF ANY, ESTABLISHED TO SECURE PAYMENT OF SUCH BONDS, AND FROM ANY OTHER LEGALLY AVAILABLE MONEYS. Whenever three-fourths of the bonds for an improvement constructed under ~~the provisions of this part 5~~ have been paid and cancelled and for any reason ~~the~~ ANY remaining assessments are not paid in time to pay the remaining bonds for the district and the interest due thereon, the municipality ~~shall~~ MAY pay, ~~if so provided in the ordinance authorizing issuance of the bonds~~ FROM LEGALLY AVAILABLE MONEYS, the bonds when due and the interest due thereon and reimburse itself by collecting the unpaid assessments due the district. All moneys collected from such assessments for any improvement shall be applied to the payment of the bonds issued until payment in full is made of all the bonds, both principal and interest, OR TO FUND OR REPLENISH RESERVE ACCOUNTS, IF ANY, ESTABLISHED TO SECURE THE PAYMENT OF SUCH BONDS. The bonds may be used in payment of the cost of the improvement as specified; or the governing body, upon advertisement published at least once in a newspaper of general circulation in such municipality and in such other newspapers as may be designated by the governing body, may sell a sufficient number of said bonds to pay such cost in cash for the best bid submitted in accordance with the terms of the notice of sale. All bids may be rejected at the discretion of the governing body. In addition, the bonds may be sold on such terms and conditions at a private sale if determined by the governing body to be in the best interests of the municipality.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 5, ANY DISTRICT FORMED FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING, AND FINANCING IMPROVEMENTS AS AUTHORIZED IN SECTION 31-25-502 (2) MAY BE AUTHORIZED TO ISSUE ONE OR MORE SERIES OF BONDS, AND BONDS OF ANY SUCH DISTRICT MAY BE PAYABLE FROM THE ASSESSMENTS LEVIED PURSUANT TO ONE OR MORE ASSESSMENT ORDINANCES.

SECTION 34. Applicability. This act shall apply to acts occurring on or after the effective date of this act.

SECTION 35. 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: May 27, 2008