

# ECONOMIC DEVELOPMENT

## Clean/Green Energy Incentives

**HB 09-1035** (Enacted)

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**HB 09-1126** (Enacted)

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**HB 09-1300** (Postponed Indefinitely)

Clean Energy Development Authority  
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**HB 09-1354** (Postponed Indefinitely)

New Home Builder Offer Wind  
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**SB 09-081** (Postponed Indefinitely)

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**SB 09-234** (Enacted)

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to General Assembly

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**HB 09-1272** (Enacted)

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**SB 09-171** (Enacted)

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**SB 09-178** (Enacted)

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**SB 09-285** (Enacted)

Career Technical Education  
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**SB 09-067** (Enacted)

Colorado Credit Reserve Program

**SB 09-162** (Enacted)

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## Clean/Green Energy Incentives

There were a number of bills introduced in the 2009 legislative session that provided certain incentives for including energy efficient or clean energy in homes and commercial properties.

***Tax credits or exemptions.*** A couple of bills offered tax incentives to encourage energy efficiency and clean energy. For FY 2009-10 through FY 2016-17, **House Bill 09-1126** makes all sales, storage, and use of components used in solar thermal systems exempt from the state sales and use tax. The bill specifies various components for solar thermal systems that are affected, and defines such a system as one whose primary purpose is to use energy from the sun to produce heat or cold for:

- heating or cooling a residential or commercial building or water; or
- any industrial, commercial, or manufacturing process.

The bill also allows local governments to provide the same financial incentives for solar thermal installations as are now provided for solar electric installations. **House Bill 09-1035** allows qualified clean technology or medical device taxpayers to claim a refund of all state sales and use tax paid on the sale, storage, use, or consumption of tangible personal property used in Colorado directly and predominately for research and development of clean technology or medical devices during that calendar year. Under the bill's provisions, the firms must be headquartered in Colorado and have no more than 50 employees. Each taxpayer may not receive more than a \$50,000 refund during any calendar year. Sales tax refunds are effective for sales taxes paid on or after January 1, 2009. The tax refund is not available in years in which the state's General Fund is not sufficient to allow General Fund appropriations to increase by 6 percent.

***Grants or funding.*** **Senate Bill 09-031** creates the Clean Technology Discovery Evaluation Grant Program in the Colorado Office of Economic Development and International Trade (OEDIT). The program will provide grant assistance to aid in the commercialization of renewable energy technologies (e.g. solar, wind, biofuel, and geothermal), or technologies and products that aid in energy efficiency, conservation, or environmental mitigation. **Senate Bill 09-232** transfers \$17 million from the Local Government Permanent Fund to the Local Government Mineral Impact Fund. All of the transferred money must be distributed to communities impacted by the production of energy resources on federal mineral lands. The bill requires that priority be given to communities that are most directly and substantially impacted by energy production and that submit joint applications with multiple local governments or that seek funding for a multi-jurisdictional project or a project that requires a substantial amount of funding.

**House Bill 09-1300**, which was postponed indefinitely, would have allowed the Colorado Clean Energy Development Authority to make direct commercial loans for projects consisting of electrical transmission, generation, and storage equipment and any land or facilities associated with such equipment. The bill also would have expanded the types of agreements the authority may make to facilitate clean energy projects and the types of projects it may finance. The bill would have allowed the authority to purchase loans made by banks or other third-party financiers.

***Other.*** **House Bill 09-1149** requires commercial homebuilders to offer prospective buyers of each single-family detached residence for which a buyer is under contract:

- a residential photovoltaic solar generation system or a residential solar thermal system;
- upgrades of wiring or plumbing, or both, planned by the builder to accommodate future installation of such systems; or
- a chase or conduit constructed to allow ease of future installation of the necessary wiring or plumbing for such systems.

The homebuilder must also provide a list of solar installers who can assess the home's solar energy generation potential. The bill requires the Governor's Energy Office (GEO) to maintain a publicly available, master list of Colorado solar installers. The GEO or its designees must also offer periodic training sessions on residential photovoltaic solar generation systems or solar thermal systems to persons that build new single-family detached residences. The GEO may assess and collect from participants a registration fee, not to exceed the actual costs of providing the training. The bill applies to contracts entered into on or after August 10, 2009, to purchase new single-family detached residences built on or after August 10, 2009; except that it does not apply to unoccupied buildings serving as sales inventory or model homes.

**House Bill 09-1354**, postponed indefinitely, would have broadened the requirements of House Bill 09-1149, enacted in the 2009 legislative session. The bill would have required homebuilders of each home for which a buyer is under contract to offer the opportunity to have the residence's electrical or plumbing system constructed to accommodate renewable energy generation devices, including wind-electric generators. House Bill 09-1149 requires that this option only be provided for solar electric generation or solar thermal systems.

In addition, homebuilders would have been required to provide every buyer under contract with a list of renewable energy generation device installers and contractors, maintained by the Governor's Energy Office (GEO). The bill also specified that renewable energy generation devices or upgrades for which accommodation options are offered constitute fixtures for financing purposes.

**Senate Bill 09-238**, which was postponed indefinitely, would have defined "permit fees" as the total compensation received by a county or municipality for approval of the installation of an active solar energy device, from any source or in any way connected with the installation. Such fees would have been limited to the lesser of the local government's actual costs of issuing the permit, or \$500. In addition, the bill would have created a private right of action for an individual against a local government that violated this limit. The bill would have directed the court to award attorney's fees to the prevailing party in such an action, and if the plaintiff were the prevailing party, three times the total amount of unauthorized fees.

## **Transportation**

A couple of economic development-related bills addressed transportation. **Senate Bill 09-108** makes several changes to the financing and administration of transportation improvements. It also creates several new functional units within the Colorado Department of Transportation (CDOT), all of which are established as government-owned business enterprises with the authority to issue revenue bonds. Specifically, the bill:

- increases fees, fines, and surcharges to provide an estimated \$250 million in new annual funding for statewide transportation improvements;

- creates the Statewide Bridge Enterprise with the authority to finance, repair and maintain certain designated bridges in the state highway system, and to impose a bridge safety surcharge to repay bonds;
- creates the High-Performance Transportation Enterprise to enter into public-private partnerships and assess user fees on existing highways to repay bonds issued for transportation infrastructure projects;
- requires CDOT to create a standing efficiency and accountability committee charged with seeking ways to maximize the efficiency of the department to allow increased investment in the transportation system over the short, medium, and long term.

**House Bill 09-1298** refunds a portion of sales tax and use taxes paid on the sale, storage, or use of Class A motor vehicles, expands the enterprise zone 3 percent investment tax credit, and creates the Green Truck Grant Program.

### **Tax Credits and Exemptions**

In the 2009 session, the General Assembly considered a variety of legislation providing tax credits or exemptions as incentives for economic development. **House Bill 09-1001** provides an income tax credit to firms that create jobs in Colorado. If the jobs are created within an enhanced rural enterprise zone, firms must create at least 5 jobs and retain them for one year. If the jobs are not being created within an enhanced rural enterprise zone, at least 20 jobs must be created and retained for one year. In order to qualify for the credit, the jobs must bring wages of at least 110 percent of the average wage of the county in which the new jobs are located. **House Bill 09-1105** allows certain investors who make investments during 2010 in small businesses involved in the research and development or manufacturing of new technologies, products, or processes to receive an income tax credit. The bill creates the Colorado Innovation Investment Tax Credit Cash Fund. The bill specifies that each qualified investor who makes a qualified investment to receive a tax credit of 15 percent of the amount of the investment, up to a maximum total of \$20,000. The bill also specifies the requirements an investor must meet in order to qualify for the credit.

A couple of bills address current tax policy and suggest possible changes. **Senate Bill 09-234** directs the Economic Development Commission, with assistance from the OEDIT to:

- recommend criteria for the creation of a statewide enterprise zone;
- evaluate whether to expand the boundaries of existing enterprise zones; and
- determine whether state income tax credits under the program should be modified.

**Senate Bill 09-085** creates a 10-member legislative task force to study the business personal property tax in Colorado. At a minimum, its purpose is to examine the following issues:

- business personal property tax exemptions that eliminate or phase-out the tax;
- an analysis of the fiscal impact of the exemptions on the state and local governments; and
- methods to reimburse local governments for a loss in revenue resulting from business personal property tax exemptions.

A few tax-related economic development bills were postponed indefinitely.

**House Bill 09-1212** would have established a temporary income tax credit for new single-family residential home buyers in tax year 2010 only. It would have allowed the credit to be refunded. The credit would have been equal to 3 percent of the purchase price, up to a maximum of \$10,000. **Senate Bill 09-233** would have allowed a mixed-use residential property in which less than 25 percent of its square footage is used for nonresidential purposes to be assessed entirely at the residential assessment rate for property tax years 2010 and 2011. Properties in which the portion used for nonresidential purposes exceeded 2,000 square feet would not have been eligible. **Senate Bill 09-081** would have phased in, over a three-year period beginning on July 1, 2010, a sales and use tax exemption for machinery and machine tools in excess of \$500 to be used in the state directly and predominantly for providing telephone and telegraph services for sale or profit.

## Education

A couple bills concerned education. The initiated measure, Amendment 50, was approved by Colorado voters at the November 2008 general election to change the parameters for limited gaming under the Colorado Constitution. **House Bill 09-1272** implements the measure and defines the games of roulette and craps, and includes those games within the definition of extended limited gaming. The new gambling provisions only go into effect with local voter approval. The maximum amount of an initial subsequent bet is increased from \$5 to \$100, and the existing limitation on the hours of casino operation is repealed. The bill creates the Extended Limited Gaming Fund in the state treasury, and directs the Limited Gaming Control Commission to annually determine the amount of gaming tax revenue generated in each city from extended limited gaming. Finally, the bill authorizes the governing body of each college that was operating on January 1, 2008, to issue bonds refundable from revenue received from gaming tax revenue.

Lastly, **Senate Bill 09-257** makes several changes to the BEST Act ("Build Excellent Schools Today") as follows:

- In the event that moneys in the Public School Capital Construction Assistance Fund are not sufficient to make lease payments, the General Assembly may appropriate or transfer other moneys in order to make the payments, provided that the use of other moneys would not impact an exemption from federal income taxation.
- The bill establishes requirements for the maintenance of an emergency reserve of at least \$1.0 million in the Capital Construction Assistance Fund.
- Currently, the Public School Capital Construction Assistance Board must factor in the priority assessment findings when considering applications after FY 2008-09. Since the priority assessment is not yet complete, the bill permits the consideration of applications until FY 2009-10, whether the priority assessment is complete or not.
- Several changes are made to the conditions on lease-purchase agreements, or certificates of participation (COPs), including: allowing the state to make a greater share of lease payments provided that the districts are matching the increased amount; allowing the State Treasurer flexibility to enter into COPs for different types of projects; and giving the State Treasurer the ability to factor in market conditions when deciding the timing of entry into a COP.

The bill also removes the director of the Division of Public School Capital Construction Assistance Board as an ex officio member of the Public School Capital Construction Assistance Board.

## **Employee Training, Certification, and Benefits**

The General Assembly considered a number of bills related to employee training, certification, and benefits.

***Employee training.*** A couple of bills addressed employee training or education. **Senate Bill 09-171** expands the allowable uses of funds from the Colorado Customized Training program to include training potential employees, establishing programs related to training, and helping companies to train employees. The Colorado Customized Job Training program is a collaborative effort between higher education, the Department of Human Services, the Department of Labor and Employment, and the Department of Local Affairs to provide grants to employees to receive customized job training conducted at community colleges or at private companies. **Senate Bill 09-285** makes changes to House Bill 09-1319, which permits students in grades 9 through 12 to enroll in courses at institutions of higher education and apply earned credits toward the requirements for both high school graduation and a post-secondary degree. Senate Bill 09-285:

- clarifies that concurrent credits may be earned in career and technical education courses;
- permits students to apply credits toward either an academic degree or a career and technical certificate; and
- adds members to the concurrent enrollment advisory board.

***Employee certification.*** **House Bill 09-1275** allows the Department of Public Health and Environment to issue provisional certifications for emergency medical technicians (EMTs). The State Board of Health is authorized to promulgate necessary rules including the establishment of a fee. Provisional certification is valid for up to 90 days. The bill allows the department to impose disciplinary sanctions on any EMT that has received a provisional certification and has violated any requirements for certification.

***Employee benefits.*** **Senate Bill 09-178** requires the director of the Division of Employment and Training to waive the requirement for employees attached to regular jobs to register for work and report to an employment office as a condition of being eligible to receive unemployment insurance (UI) benefits for a period of 26 weeks. The bill affects claimants who are unemployed due to a temporary lack of work from their most recent employer, but anticipate returning to work with that employer.

## **Other**

One bill in the 2009 legislative session addressed the availability of credit to Colorado businesses. **Senate Bill 09-067** authorizes the Colorado Economic Development Commission to contract with the Colorado Housing and Finance Authority for the operation of a Colorado Credit Reserve Program for the purpose of increasing the availability of credit to small businesses in Colorado.

Another bill concerned a statewide inventory of broadband service areas.

**Senate Bill 09-162** amends statutes adopted in 2008 for the creation of an inventory of broadband service areas within the state by:

- allowing for the acceptance of public funds to help finance the creation of the inventory;
- extending the deadline for completion of the inventory from April 1, 2009, to November 1, 2009; and
- extending the repeal date for the statutes governing creation of the inventory from July 1, 2009, to January 1, 2010.