

ENERGY

Renewable Energy

SB 11-071 (*Postponed Indefinitely*)
Reduce Energy Costs

HB 11-1083 (*Enacted*)
Hydroelectricity and Pumped
Hydroelectricity

HB 11-1103 (*Postponed Indefinitely*)
Incentivise Certain Wind turbine
Systems

HB 11-1199 (*Enacted*)
Limit Government Fee Install Solar
Energy Panel

HB 11-1228 (*Postponed Indefinitely*)
Economic Development Through
Distributed Generation

HB 11-1255 (*Lost in House*)
Colorado Alternative Energy Park Act

HB 11-1312 (*Postponed Indefinitely*)
Reorganization of Governor's Energy
Office

Energy Efficiency

SB 11-032 (*Deemed Lost*)
On-bill Financing Program for Energy
Cost Savings

HB 11-1132 (*Postponed Indefinitely*)
On-bill Energy Efficiency Improvement
Financing

HB 11-1160 (*Enacted*)
Governor's Energy Office Green Building
Incentive Program

HB 11-1191 (*Postponed Indefinitely*)
Utility Resource Usage Data Sharing

HB 11-1204 (*Postponed Indefinitely*)
Energy Efficient School Buildings

Utilities

SB 11-030 (*Postponed Indefinitely*)
Transparency in Gas Electric
Utility Bills

SB 11-045 (*Enacted*)
Streamline Electric Powerline Siting

SB 11-113 (*Postponed Indefinitely*)
Public Utility Ratepayer Protection Act

SB 11-130 (*Postponed Indefinitely*)
Transparency Building Energy
Performance

SB 11-131 (*Postponed Indefinitely*)
Colorado Smart Grid Task Force

HB 11-1240 (*Postponed Indefinitely*)
Electric Utility Carbon Tax Rate
of Return

HB 11-1262 (*Enacted*)
Public Utilities Commission
Transparency in Bidding

HB 11-1271 (*Postponed Indefinitely*)
Limit Tiered Rates Electric Utilities

The General Assembly considered a variety of energy-related legislation during the 2011 session. Major topics addressed include renewable energy, energy efficiency, and utilities.

Renewable Energy

Colorado is one of the richest states in renewable energy resources, with high solar, wind, and geothermal potential. When Governor Bill Ritter took office in 2007, he announced that one of his primary focuses as governor would be to create a new energy economy in the state. One of his first steps was to put forth the Colorado Climate Action Plan, which called for the state to reduce emissions of greenhouse gases by 20 percent by 2020. This focus on reducing emissions and alternative energy set the stage over the next several years for numerous pieces of legislation aimed at encouraging renewable energy development and use. In 2011, the General Assembly considered six bills regarding various aspects of renewable energy.

Current law, set to expire on July 1, 2011, prohibits municipalities and counties from charging a permit fee in excess of \$500 for a residential application or \$1,000 for a nonresidential application to install an active solar energy device or system. Following the expiration of local permit fee limits, local governments may set fees for solar installations based on actual costs or any other lawful method. **House Bill 11-1199** extends the sunset date for statutory limits on solar device fees to July 1, 2018, and extends the local permit fee limits. Additionally, the bill prohibits state government from charging fees greater than \$500 for a residential application or \$2,000 for a nonresidential application.

The Public Utilities Commission (PUC) is required to consider the cost-effective implementation of clean energy and energy-efficiency technologies in its consideration of generation acquisitions for electric utilities, taking into account factors such as energy security, economic prosperity, environmental protection, and insulation from fuel price increases. **House Bill 11-1083** adds hydroelectricity and pumped hydroelectricity to the list of technologies that the PUC may give the fullest possible consideration when considering generation acquisitions for electric utilities.

Tax increment financing (TIF) is a public financing method used for redevelopment projects in Colorado exclusively targeted at improving blighted areas. Enterprise zones were established to provide incentives and tax credits for private enterprise to expand and for new businesses to locate in economically distressed areas of the state. **House Bill 11-1255**, which was lost in the House of Representatives, would have created alternative energy parks that combined the use of TIF and enterprise zone income tax credits into one type of economic development zone. The parks would have been areas for facilities that produce components or equipment for use in the production of clean energy or energy efficiency improvements. The bill included several qualifications, including the location of one or more existing or planned alternative energy facilities worth at least \$2.5 million, and restrictions on the inclusion of agricultural lands. The bill specifically would have:

- authorized the use of TIF, using either local property tax revenue, municipal sales tax revenue, or both, to finance construction of specified improvements within alternative energy parks;
- authorized financing entities to issue tax-exempt bonds to finance the development of renewable energy parks;

- required that the Colorado Economic Development Commission ensure that any area designated as an alternative energy park have specific economic development objectives that could be measured with verifiable data; and
- beginning in income tax year 2014, created a series of income tax credits similar to existing tax credits for Colorado enterprise zones.

House Bill 11-1103 would have created a series of tax incentives to promote electrical generation through the use of distributed generation wind turbine systems. The incentives would have applied to systems with a capacity of between 100 and 700 kilowatts per hour that were installed behind the meter of a residential or commercial building. The bill was postponed indefinitely.

In 2004, Colorado voters passed a citizen-sponsored initiative for a renewable portfolio standard (RPS), which required utilities serving 40,000 or more customers to generate or purchase enough renewable energy to supply 10 percent of their retail electric sales by 2015. Changes were most recently made to the RPS in 2010 by House Bill 10-1001. The bill increased the RPS for investor-owned utilities to 30 percent by 2020. **House Bill 11-1228** would have directed the Office of Economic Development (OED) to commission a study of the potential economic benefits to increasing the amount of distributed generation within the state's renewable portfolio standard by July 1, 2011. Specifically, the OED would have contracted with a private analyst to look at additional, market-based incentives to promote distributed generation, and the potential new job and economic development that these incentives could provide. The bill specified the structure of the study, and various elements that would have been required to be included in the final report. The bill was postponed indefinitely.

Senate Bill 11-071, postponed indefinitely, also would have made modifications to the RPS, as well as the sections of statute concerning the PUC's authorizations, and utility service charges. The bill would have repealed the existing RPS and restored the standard originally approved by voters in the 2004 election under Amendment 37. Additionally, the bill specified that only utilities serving more than 40,000 customers would be subject to the RPS.

The Governor's Energy Office (GEO) was originally created in 1977 under the name of the Governor's Office of Energy Management and Conservation. It evolved under new administrations and responsibility for the office was taken over by Governor Hickenlooper in 2011. The office's mission is to advance energy efficiency and renewable clean energy resources, while also focusing on increasing business and job creation in Colorado. **House Bill 11-1312** would have reorganized the GEO and changed the name of the office to the Colorado Energy Office. The bill would have transferred regional representatives now at GEO to the Office of Economic Development and International Trade, reduced the GEO workforce by 25 percent, adjusted the office's mission, and changed the name of the Clean Energy Fund to the Energy Innovation Fund. The bill was postponed indefinitely.

Energy Efficiency

In 2011, the General Assembly considered five energy efficiency related bills. One bill was passed and four failed.

House Bill 11-1160 creates the Green Building Incentive Pilot Program, to be developed and administered by the Governor's Energy Office (GEO). Under the program, the GEO will award grants to qualified applicants who are preparing to sell their current homes with energy efficiency ratings below minimum standards and purchase highly efficient new residential construction. Grants will be awarded for the purpose of allowing applicants to make energy efficiency improvements to their current residences to increase their marketability. Applicants are required to submit specified documentation related to the energy requirements for both the existing and the new residences to the GEO, as well as closing documents for the new residence. The GEO is required to maintain a list of qualified contractors able to make the energy efficiency improvements. The bill specifies that federal funds are to be used for all pilot program expenses.

Under current law, public electric or natural gas utilities are not allowed to cover the up-front costs of energy efficiency improvements to real property and have property owners repay them over time using a meter conservation charge on their utility bills. **Senate Bill 11-032** and **House Bill 11-1132** would have authorized such on-bill financing. Senate Bill 11-032 would have required the Public Utilities Commission (PUC) to promulgate rules establishing an on-bill financing program for residential clean energy improvements that would have applied to all regulated utilities that sold electricity or natural gas. Under the program, retail customers of regulated electric and natural gas utilities could have obtained a loan from their utility to make clean energy improvements to their homes. Borrowers would have paid an increased rate or surcharge on their utility bill every month until the loan was paid off. Loans made under the program would have been attached to the property, so payments toward the clean energy improvement loan would continue even if there was a change in ownership or occupancy of the residence. Any energy savings generated by clean energy improvement under the financing program would have counted towards the utility's energy savings targets and peak demand reduction goals established in current law. The bill was lost in the Senate. House Bill 11-1132 would have:

- authorized public utilities to enter into on-bill financing agreements with residential customers;
- required public utilities to perform energy audits that include an estimate of the costs and expected savings from energy efficiency improvements,
- specified limitations and requirements for an on-bill financing agreement;
- allowed public utilities to disconnect utility service if a customer fails to pay the meter conservation charge;
- required public utilities to file on-bill financing agreements with the appropriate county clerk and recorder; and
- allowed public utilities to count energy savings from on-bill financing toward compliance with mandated demand-side management goals.

Starting January 1, 2012, **House Bill 11-1204** would have required school districts or charter schools undergoing new school construction, or major improvements to schools, to satisfy one of three options:

- qualifying for the federal Energy Star label and acquiring such rating, following an energy efficiency audit;
- engaging the GEO concerning best building practices; or
- employing a design and construction team that has energy-efficiency expertise, who may be a representative from the local utility.

House Bill 11-1191, postponed indefinitely, would have authorized third-party entities to act as data clearinghouses for energy consumption data from utilities that furnish electricity, natural gas, steam, water, thermal energy, or other resources to customers. The purpose of the program would have been to provide data to public and private entities suitable for measuring: energy usage during specified time periods, energy efficiency for buildings in specified geographic areas, and the effectiveness of energy efficiency programs, including demand-side management programs and emission control plans.

Utilities

In Colorado, residents and businesses buy electricity from one of three utility types: investor-owned utilities, rural electric cooperatives, or municipal utilities. There are two investor-owned utilities in Colorado, Xcel Energy and Black Hills Energy, and over 20 Rural Electric Cooperatives and municipal utilities. The activities of utilities are regulated at the state level by the Public Utilities Commission (PUC), which has full economic and quality-of-service authority over the state's investor-owned utilities. In 2011, the General Assembly considered several bills regarding the regulation of these utilities by the PUC and the information they are required to provide to customers. Bills concerning electric transmission siting and permitting were also considered.

House Bill 11-1262 directs the PUC, within 90 days of passage of the bill, to begin promulgating rules regarding information provided by investor-owned utilities to electric generation facility owners. Specifically, the bill requires that facility owners have access to any modeling and assumptions used by the investor-owned utilities in resource acquisition bidding that directly relates to their facilities. The bill also requires the PUC to designate resource acquisition information as highly confidential.

Senate Bill 11-030 would have required all investor-owned gas and electric utilities to provide their customers with information on factors affecting utility rates on a quarterly basis. Specifically, the bill would have required electric utilities to provide information on:

- the types of fuels used to generate electricity;
- the percentage of the utility's electricity attributable to each fuel type used;
- the load profile for each fuel type, and
- the total cost of generating electricity per kilowatt-hour for each.

The cost calculation would have had to include all ancillary costs associated with that fuel type. Natural gas utilities also would have been required to provide information on the cost per thousand cubic feet of gas under contract, and all ancillary costs, including the costs of underground storage and pipeline expansions. Finally, the bill specified that the utility's costs of revising the format of their current utility bills to provide the additional information could have been recovered through rates. The bill was postponed indefinitely.

On and after January 1, 2012, **Senate Bill 11-130**, postponed indefinitely, would have required all utilities with at least 40,000 customers to maintain energy consumption data for all commercial buildings served by the utility. Beginning January 1, 2013, a commercial building's owner and the utility would have been required to upload the energy consumption data to a portfolio manager maintained by the U.S. Environmental Protection Agency for the purpose of generating an energy performance rating. Associated costs incurred by the utility could have only been recovered from customers that receive energy performance ratings. Owners or agents of commercial buildings would have been required to disclose the building's energy performance rating to purchasers or lessees at the time of conveyance and, upon request, to prospective purchasers or lessees. Finally, the bill specified that a person supplying false information related to the disclosure of an energy performance rating would have committed a Class 1 misdemeanor.

House Bill 11-1240 would have allowed the PUC to impute the cost of a carbon tax imposed at the federal level when calculating an electric utility's investments and comparing the cost of maintaining existing infrastructure with the cost of replacing existing power plants with more energy-efficient power plants. The bill conditioned the PUC's imputation of the carbon tax on the actual adoption of a carbon tax as part of federal law, which has not occurred. The bill also would have limited the rate of return that a utility could earn on capital and operating costs associated with new generation facilities to one-half the rate of return that the utility could earn on the costs associated with the existing generating facilities that are not yet fully depreciated. The bill was postponed indefinitely.

House Bill 11-1271 would have required regulated electric utilities currently charging a residential tiered rate, by December 1, 2011, to file a report with the PUC evaluating the estimated impact of the tiered rate structure on customer usage patterns. The PUC would then have been required to prepare and submit a report regarding tiered rate structures to the General Assembly, including an evaluation of whether the PUC should place any limitations on the future use of graduated scale of charges. The bill was postponed indefinitely.

Current law authorizes the PUC to consider future regulations and the risk of future costs associated with greenhouse gas emissions when establishing utility rates. **Senate Bill 11-113**, postponed indefinitely, would have prohibited the PUC from considering both of these factors when setting utility rates. The bill, however, would have allowed the PUC to consider actual costs incurred by complying with federal or state laws or regulations. The bill also would have allowed the PUC to consider whether carbon-free generation reduces actual costs incurred by utilities due to federal or state carbon emissions regulation.

Senate Bill 11-045 creates the 17-member Task Force on Statewide Transmission Siting and Permitting, and specifies its membership. The task force is required to hold at least four public meetings, solicit comments from members of the public, and report on its findings, including the

adoption of any recommended statutory changes to the Governor and the General Assembly by December 1, 2011. At a minimum, the task force is required to consider:

- an inventory and evaluation of Colorado's current siting and permitting framework for electric transmission facilities;
- how other states approach siting and permitting of electric transmission facilities;
- possible models for improving and streamlining Colorado's existing siting and permitting processes;
- the advantages and disadvantages of a statewide transmission siting and permitting framework for electric transmission facilities; and
- the political acceptability of, and strategies for, creating a state-level siting entity.

The bill authorizes the task force to accept gifts, grants, and donations, but specifies that the PUC is not required to solicit such moneys on behalf of the task force. If by June 1, 2011, sufficient moneys have not been raised to cover task force expenses, the task force is disbanded and the PUC must return any contributions.

In 2010, Senate Bill 10-180 created an interim task force to study issues related to the development of a smart energy grid in Colorado and to make recommendations for future legislation.

A smart grid delivers electricity from suppliers to consumers using two-way digital technology to control appliances at consumers homes to save energy and reduce energy costs. **Senate Bill 11-131**, which was postponed indefinitely, would have implemented the recommendations made by the task force by requiring the Division of Employment and Training in the Department of Labor and Employment to:

- study the scope, magnitude, and impact of the development of the smart grid on jobs in Colorado;
- identify public-private partnerships to fund programs to support the technical skills necessary to deploy a smart grid in Colorado, in collaboration with the Department of Higher Education; and
- produce and deliver a report of its findings by January 20, 2012, to the Governor and the General Assembly.

The bill also would have directed the Governor's Energy Office to establish an independent clearinghouse of information for consumers. This information would have supplemented information provided by utilities through existing demand-side management programs. Finally, the bill would have created a Smart Grid Division within the Office of Economic Development and International Trade to promote entrepreneurship, technology transfers, and other economic development efforts related to the smart grid.