

ENERGY

Renewable Energy

SB 12-178 (*Deemed Lost*)
Renewable Energy Standards
Colorado Credits

HB 12-1105 (*Enacted*)
Wind Energy Property Rights

HB 12-1121 (*Deemed Lost*)
Public Utility Commission Hearings
Utility Ratepayers' Bill of Rights

HB 12-1160 (*Deemed Lost*)
Captured Methane from Coal Mines

HB 12-1315 (*Enacted*)
Reorganization of the Governor's
Energy Office

HB 12-1334 (*Enacted*)
Severance Tax Funding Agricultural
Energy Projects

HB 12-1351 (*Deemed Lost*)
Recycled Energy Includes Gas Derived
from Waste

Energy Efficiency

HB 12-1028 (*Enacted*)
Continue Low-income Energy-related
Assistance

HB 12-1235 (*Postponed Indefinitely*)
Energy Efficient Public Schools

HB 12-1320 (*Postponed Indefinitely*)
Energy-related Assistance Low-income
Households

Utilities

SB 12-183 (*Deemed Lost*)
Utility Heating Disconnect Cold
Weather Exemption

HB 12-1123 (*Postponed Indefinitely*)
Public Utility Commission Report to
General Assembly on Rate Case
Hearings

HB 12-1264 (*Postponed Indefinitely*)
Facilitate Distributed Energy Generation
in Colorado

HB 12-1312 (*Enacted*)
Public Utilities Commission Electric
Transmission Lines

The General Assembly considered a variety of energy-related legislation during the 2012 session. Major topics included 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. In 2012, the General Assembly considered seven bills regarding various aspects of renewable energy.

House Bill 12-1105 establishes that wind energy rights are not severable from the surface estate to real property in Colorado. Under the act, development of wind energy rights is accomplished through a wind energy agreement, which may be a lease, license, easement, or other grant or reservation, but must be evidenced in the real property records of the clerk and recorder in the county where the subject land is located. The act also defines the procedure for release from a wind energy agreement that has terminated and for reversion of wind energy rights that have not been developed for a continuous period of fifteen years. The act clarifies that equipment for wind energy development is not subject to taxation until wind energy production commences.

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. **House Bill 12-1315:**

- changes the name of GEO to the Colorado Energy Office;
- changes the statutory mission of GEO to include promotion of all Colorado energy;
- mandates notification to the legislature for any changes related to policies contained in GEO's strategic plan, policies related to energy transmission, or any policy that may positively or negatively impact the energy sector;
- creates the Clean and Renewable Energy Cash Fund and makes an appropriation thereto;
- creates the Innovative Energy Fund and specifies its funding from severance taxable resources; and
- repeals the Green Truck Grant Program and Clean Energy Development Authority.

House Bill 12-1334 extends the funding from the Operational Account of the Severance Tax Trust Fund used to promote agricultural energy-related projects through FY 2016-17 at a level of \$500,000 annually.

Renewable Portfolio Standard. 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. Under current law, a portion of Colorado's RPS must be met through distributed generation (DG). DG includes on-site generation that is either:

- designed to provide electricity to serve the customer's load, or
- with a nameplate rating of 30 megawatts or less but is not specifically designed to cover the customer's load.

Senate Bill 12-178, which was lost in the Senate, would have modified Colorado's RPS to remove in-state preferences with respect to:

- wholesale DG;
- an existing one and one-quarter kilowatt-hour multiplier for eligible resources other than retail DG and community-based projects; and
- policies providing incentives for qualifying retail utilities to invest in eligible resources.

House Bill 12-1160, postponed indefinitely, would have added coal mine methane (CMM) gas to the list of new energy technologies that the Public Utilities Commission (PUC) is required to give consideration to in its acquisition of electric utilities. In addition, the bill specified that, for facilities with a generating capacity of 30 megawatts or less, electricity generated from the combustion of CMM gas would have counted for purposes of complying with the state renewable portfolio standard. Finally, the bill would have exempted CMM gas from the state's severance tax.

House Bill 12-1351 would have added electricity produced through the combustion of synthetic gas derived from waste materials through pyrolysis (thermal breakdown) at such a generation unit to the statutory definition of recycled energy resource. For the purposes of the RPS, the PUC may have authorized up to four projects with a combined nameplate of 65 megawatts from this type of recycled energy. In addition, the bill would have modified the RPS to remove in-state preferences with respect to:

- wholesale DG;
- the existing multipliers for eligible resources other than retail distributed generation and community-based projects; and
- policies providing incentives for qualifying retail utilities to invest in eligible resources.

Finally, the bill would have added up to 50 megawatts of energy generated from CMM gas to the list of eligible resources for the RPS. The bill was lost in the Senate.

House Bill 12-1121 would have authorized the PUC to suspend, for a period of up to 10 years, implementation of the 30 percent RPS beginning in 2020, if it determined that implementation created undue financial burden on ratepayers. The bill was lost in the House of Representatives.

Energy Efficiency

In 2012, the General Assembly considered three energy efficiency related bills. One bill was passed and two failed.

The Operational Account of the Severance Tax Trust Fund receives 25 percent of severance tax receipts. **House Bill 12-1028** extends the funding from the Operational Account of the Severance Tax Trust Fund used for providing low-income energy-related assistance (LEAP) through direct bill payment assistance and home energy-efficiency improvements through FY 2018-19 at a level of \$13 million annually. Under current law, LEAP funding would have sunset after FY 2012-13. The bill allocates LEAP funding as it is in current law, in the following proportions:

- 25 percent to the Department of Human Services;
- 25 percent to Energy Outreach Colorado; and
- 50 percent to the GEO.

Beginning January 1, 2013, **House Bill 12-1235**, postponed indefinitely, would have required the new construction or significant redesign of public school facilities, including district charter schools, to meet certain energy-efficient design standards. Each new construction or significant redesign project would have been required to satisfy one of the following four conditions:

- acquire the federal Energy Star label;

- achieve the highest attainable performance certification as verified by an independent third party pursuant to the high performance certification program selected by the Office of the State Architect, within the Department of Personnel and Administration;
- consult with the GEO regarding best building practices throughout the design and construction of the new facility; or
- employ a design and construction team that consists of at least one person who possesses a professional accreditation in energy-efficient design practices and who provides professional technical assistance to the project.

Under current law, a portion of Tier 2 moneys from the Operational Account of the Severance Tax Trust Fund are allocated to three separately managed programs that provide home energy assistance and efficiency improvements for low-income households:

- GEO Weatherization program;
- Department of Human Services (DHS) Direct Bill Assistance program; and
- Energy Outreach Colorado (EOC) Direct Bill Assistance program.

House Bill 12-1320 would have repealed the GEO and the EOC programs and redirects their funding to the DHS program. The bill was postponed indefinitely.

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 PUC, which has full economic and quality-of-service authority over the state's investor-owned utilities. In 2012, the General Assembly considered four bills regarding the regulation of these utilities by the PUC. One bill passed and three failed.

House Bill 12-1312 specifies that the PUC, when determining whether to grant a certificate of public convenience and necessity for the siting of proposed electric transmission lines or associated facilities, should not consider local land use issues. Issues such as the location or alignment of the proposed lines or facilities are to be addressed through a local government's land use regulations.

Senate Bill 12-183 would have directed the PUC to require natural gas and electric utilities subject to its jurisdiction to provide data concerning notification and discontinuance of utility service to residential customers to the Commission on Low-Income Energy Assistance. The commission would have been tasked with reviewing this data to assess the impact that existing rules, agreements, and policies have on low-income residential utility customers. The commission would have been

directed to make recommendations by December 15, 2013, to the Governor and the General Assembly on any necessary legislative changes to existing measures intended to prevent the disconnection of utility services during periods of extreme weather. The commission would have been authorized to seek and receive public and private funding and use the existing resources of the PUC, the Department of Human Services, and Energy Outreach Colorado. The bill was lost in the House of Representatives.

House Bill 12-1123 would have required the Director of the PUC to present an annual report to the Joint House and Senate Transportation Committee regarding energy utility rate cases heard before the PUC in the past two years. The report would have been required to include the disposition of each rate case, the amount of any rate change expressed as a percentage of the total amount billed to ratepayers per month and per year, and the dollar amount of the average change in monthly bill paid by each class of energy utility ratepayer. Only matters addressed within the scope of the evidence and testimony presented in a rate case hearing were to be reported. The bill was postponed indefinitely.

House Bill 12-1264 would have promoted interconnection for DG in two ways. First, the bill would have directed the PUC to adopt new rules for interconnection between customer generators and utilities based on standards developed by the Interstate Renewable Energy Council. The bill also would have created a task force to study DG interconnection issues. The bill was postponed indefinitely.