

ENERGY

Research Notes are prepared by Legislative Council Staff's nonpartisan research and committee staff. Research notes provide a summary of the bill, background information on the bill, and information on committee hearings and amendments adopted on the bill as it moves through the legislative process. Legislative Council Staff prepares final research notes for bills passed by the General Assembly as well as select bills that were considered but not adopted, and may be accessed through the links below. Research notes are provided for informational purposes only and should not be relied upon as an official record of action by the General Assembly.

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Legislative Council Staff

Research Note

Bill Number: HB15-1372

Short Title: *Raise The Public Utility Fee Cap*

Prime Sponsors: Representative Tyler
Senator Heath

Research Analyst: Katie Ruedebusch (x3001)

Current Status

This research note reflects the final version of the bill, which was signed by the Governor and became effective on June 1, 2015.

Summary

The bill raises the statutory limit on the rate of Public Utilities Commission Fixed Utility Fund (FUF) assessments for electric and natural gas utilities to 0.25 percent of gross revenue. The rate is applied to each regulated company's gross intrastate utility operating revenues (gross revenue), as calculated by the Colorado Department of Revenue (DOR), and may not exceed 0.2 percent of gross revenue. The current 0.2 percent assessment limit continues to apply to telecommunications utilities, and assessments collected from telecommunications companies are deposited into a new Telecommunications Utility Fund.

Background

In 1913, the General Assembly created the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA). The PUC regulates public utilities (electricity, gas, rail, water, telecommunications, etc.) in the state of Colorado. Under current law, the FUF pays for certain operations (approximately 85 percent) of the PUC. Revenue to the FUF is from fees assessed against regulated electric, natural gas, and telecommunications utilities at a rate set annually based on the amount needed to cover applicable PUC and other utility regulation expenditures in DORA.

The current 0.2 percent limit on FUF assessments of public utilities has existed in Colorado law since 1955. According to this law, DOR must contribute to the General Fund 3 percent of fees collected through this assessment process. Thus, whenever additional expenses are incurred against the FUF, the assessment is raised to increase revenues for direct and indirect costs of

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utility regulation, plus the 3 percent credit to the General Fund all the while staying within in 0.2 percent limit on assessment.

House Action

House Finance Committee (April 29, 2015). At the hearing, representatives of the PUC, DORA, and Xcel Energy, testified in support of the bill. The committee adopted amendment L.002 which concerns the assessment rate of telecommunication businesses/utilities and creates the new Telecommunications Utilities Fund. The committee referred the bill, as amended, to the House Appropriations Committee.

House Appropriations Committee (April 30, 2015) The committee referred the bill to the House Committee of the Whole with no additional amendments.

House Second Reading (April 30, 2015). The committee adopted the Finance Committee report and the bill passed the House Committee of the Whole on second reading with no additional amendments.

House Third Reading (May 1, 2015). The bill passed the House with no further amendments.

House Concur with Senate Amendments (May 6, 2015). The House concurred with Senate amendments and repassed the bill.

Senate Action

Senate Finance Committee (May 5, 2015). At the hearing, a representative of the PUC testified in support of the bill. The committee referred the bill to the Senate Appropriations Committee.

Senate Appropriations Committee (May 5, 2015). The committee adopted amendment J.002, which adds an appropriation clause to the bill. The amendment included an FY 2014-15 appropriation to DOR in order to update its tax administration systems. The committee referred the bill, as amended, to the Senate Committee of the Whole.

Senate Second Reading (May 5, 2015). The committee adopted the Appropriations Committee report and the bill passed the Senate Committee of the Whole on second reading with no additional amendments.

Senate Third Reading (May 6, 2015). The bill passed the Senate with no further amendments.

Relevant Research

Colorado Public Utilities Commission:

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<http://cdn.colorado.gov/cs/Satellite?c=Page&childpagename=DORA-PUC/DORALayout&cid=1251614750747&pagename=CBONWrapper>

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Legislative Council Staff

Research Note

Bill Number: HB15-1299

Short Title: *Compliance Assistance Petroleum Storage Tank Fund*

Prime Sponsors: Representatives Hamner and Nordberg
Senator Scott

Research Analyst: Katie Ruedebusch (x3001)

Current Status

This research note reflects the final version of the bill, which was signed by the Governor and became effective on May 8, 2015.

Summary

This bill expands the eligibility for Petroleum Storage Tank Fund moneys to tank owners and operators of *aboveground* petroleum tanks. It also expands the group of individuals eligible to receive money to those conducting significant operational compliance upgrades for both underground and aboveground petroleum tanks. "Significant operational compliance" means that an owner or operator of an underground or aboveground storage tank is in full regulatory compliance and, through optional best management practices, has prevented or reduced the threat of a release into the environment.

Background

Under current law, Petroleum Storage Tank Fund moneys may be used as incentives to *underground* tank owners and operators to update existing systems. The Petroleum Storage Tank Fund reimburses eligible applicants for the costs of cleaning up both underground and aboveground petroleum tank contamination. Fund revenue primarily comes from a surcharge on petroleum products, excluding railroad and aircraft fuel. The surcharge amount is determined by available revenue in the fund. Additional funding comes from fees, civil penalties, and reimbursement for the cost of investigating petroleum leaks by the Division of Oil and Public Safety in the Department of Labor and Employment (division).

The division receives and processes applications to the Colorado Petroleum Storage Tank

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Fund. After the division evaluates the applications, the division presents the results to the Petroleum Storage Tank Committee. The Petroleum Storage Tank Committee, comprised of seven members who have technical expertise and knowledge in the field, determines the final eligibility for grants.

House Action

House Finance Committee (April 1, 2015). At the hearing, the committee referred the bill to the House Committee of the Whole.

House Second Reading (April 6, 2015). The bill passed the House Committee of the Whole on second reading.

House Third Reading (April 7, 2015). The bill passed the House with no amendments.

Senate Action

Senate Finance Committee (April 21, 2015). At the hearing, representatives of the Colorado Wyoming Petroleum Marketers Association and the division testified in support of the bill. The committee referred the bill to the Senate Committee of the Whole with the recommendation that it be placed on the consent calendar.

Senate Second Reading (April 23, 2015). The bill passed the Senate Committee of the Whole on second reading.

Senate Third Reading (April 24, 2015). The bill passed the Senate with no amendments.

Relevant Research

Colorado Department of Labor and Employment, Petroleum Storage Tank Fund Information: <https://www.colorado.gov/pacific/ops/Fund>



Legislative Council Staff

Research Note

Bill Number: HB15-1284

Short Title: *Expand Scope Shared Photovoltaic Facilities*

Prime Sponsors: Representative Winter and Roupe
Senator Grantham and Hodge

Research Analyst: Matt Kiszka (x6275)

Current Status

This research note reflects the final version of the bill, which was signed by the Governor and became effective on May 8, 2015.

Summary

Under Colorado's renewable energy standard (RES), retail customers whose property is not well-suited for on-site solar energy generation may buy output from a centrally located distributed generation facility with other subscribers. These facilities are commonly known as community solar gardens (CSGs).

Before the passage of the bill, state law required subscribers to live in the same county as the CSG, with one exception: if the subscriber's county has less than 20,000 residents, the CSG may be in an adjacent county as long as that county also has less than 20,000 residents. This bill removes the population requirement, allowing an individual to subscribe to a CSG in any adjacent county.

Background

In 2010, House Bill 10-1342 qualified CSGs as retail distributed generation under Colorado's RES. Specifically, the bill:

- defined a CSG as an on-site solar electric generation facility with a capacity of up to 2 megawatts in which subscriptions are owned by 10 or more customers;
- specified that CSGs qualify as retail distributed generation as defined in HB 10-1001, but that CSG renewable energy credits (RECs) may not count for more than 20 percent of a utility's retail distributed generation supply requirements in 2011 through 2013;

- allowed the creation of a CSG owned by a subscriber organization and limited the size of a subscription to 120 percent of the average annual electric consumption of each subscriber at the premises to which the subscription is attributed;
- specified that, from 2011 through 2014, qualifying investor-owned utilities must purchase half of their total planned CSG purchases through standard offers similar to those that apply to on-site solar generation, but are not obligated to buy more than 6 megawatts of generation from newly installed CSG facilities;
- directed the Public Utilities Commission to determine the minimum and maximum purchases of CSG generation in 2014 and thereafter; adopt rules governing transfers of ownership of subscriptions and allocation of RECs; and determine a reasonable charge allowing a utility to recover the costs of delivering CSG generation; and
- specified that cooperative electric associations and municipally-owned utilities are exempt from the bill.

House Action

House Transportation and Energy Committee (March 18, 2015). At the hearing, representatives of SunShare, the Clean Energy Collective, and the Colorado Solar Energy Industry Association testified in support of the bill. A representative of Black Hills Energy spoke in opposition to the bill. The committee adopted amendment L.003, which removed provisions of the bill that would have increased the required minimum number of subscribers in a CSG with a generation capacity larger than 500 kilowatts from 10 to 25, and refined statutory provisions governing a utility's cost recovery for operation of a CSG. The committee referred the bill, as amended, to the House Committee of the Whole.

House second reading (March 23, 2015). The House Committee of the Whole adopted the House Transportation and Energy committee report and the bill.

House third reading (March 24, 2015). The House adopted the bill, unamended.

Senate Action

Senate Agriculture, Natural Resources, & Energy Committee (April 16, 2015). At the hearing, representatives from SunShare, the University of Colorado - Boulder, and a representative of the Colorado Springs City Council testified in support of the bill. Representatives of the Colorado Mining Association and Xcel Energy spoke in opposition to the bill. The committee referred the bill, unamended, to the Senate Committee of the Whole.

Senate second reading (April 24, 2015). The Senate Committee of the Whole adopted the bill, unamended.

Senate third reading (April 27, 2015). The Senate adopted the bill, unamended.

Relevant Research

Legislative Council Staff Issue Brief on [Colorado's Renewable Energy Standard](#).



Legislative Council Staff

Research Note

Bill Number: HB15-1219

Short Title: *EZ Investment Tax Credit For Renewable Energy*

Prime Sponsors: Representatives McCann and J. Becker
Senators Hodge and Sonnenburg

Research Analyst: Matt Kiszka (x6275)

Current Status

This research note reflects the final version of the bill, which was signed by the Governor and became effective on June 5, 2015.

Summary

This bill allows a taxpayer who places a renewable energy project in an enterprise zone and receives certification to claim an Enterprise Zone Investment Tax Credit (ITC) for the project an option to receive a refund of the credit. The amount of the refund is equal to 80 percent of the ITC credit and is capped at \$750,000 per tax year and taxpayer. The refund is available for income tax years commencing January 1, 2015, and expires January 1, 2021. Renewable energy investments completed on or after January 1, 2015, but before January 1, 2021, may elect to receive a refund. A taxpayer can only receive a refund from one new renewable investment at a time. The taxpayer must exhaust the full amount of the refund from one project before electing to receive a refund from another renewable energy investment that generated ITC credits.

The bill also requires the Colorado Economic Development Commission to annually post on its website the level of renewable energy investment and other information resulting from the refund.

Background

Colorado's Enterprise Zone (EZ) Program provides tax credits and incentives to businesses and individuals for investing in economically distressed areas of the state in an effort to encourage economic development. The ITC is an income tax credit equal to 3 percent of qualified investments located in an EZ. Taxpayers may claim up to half their annual tax liability plus \$5,000 in any one year. If the income tax credit is more than what a taxpayer may claim, the credit can be carried forward. Renewable energy investments may carry the credit forward for up to 22 years.

Relevant Research

Legislative Council Staff, [Issue Brief on Colorado's Enterprise Zone Program](#).

House Action

House Transportation and Energy Committee (March 4, 2015). At the hearing, representatives of NextEra Energy Resources, the Interwest Energy Alliance, Renewable Energy Systems Americas, the Colorado Independent Energy Association, the Colorado Farm Bureau, the Colorado Cleantech Industry Association, and Conservation Colorado testified in support of the bill. A representative of the Colorado Fiscal Institute spoke in opposition to the bill. The committee referred the bill, unamended, to the House Finance Committee.

House Finance Committee (March 25, 2015). At the hearing, representatives of NextEra Energy Resources, the Interwest Energy Alliance, SunEdison, the Colorado Farm Bureau, the Colorado River District, and Conservation Colorado testified in support of the bill. A representative of the Colorado Fiscal Institute spoke in opposition to the bill. The committee adopted amendment L.003, which added required information to the annual report that must be posted by the Colorado Economic Development Commission regarding enterprise zone ITCs. It also adopted amendment L.004, which clarified that a taxpayer can only receive a refund from one new renewable investment at a time, and capped the credit at \$750,000 per taxpayer per tax year. The committee referred the bill, as amended, to the House Appropriations Committee.

House Appropriations Committee (April 10, 2015). The committee adopted amendment J.001, which added an appropriations clause to the bill. The committee referred the bill, as amended, to the House Committee of the Whole.

House second reading (April 14, 2015). The House Committee of the Whole adopted the committee report and the bill.

House third reading (April 15, 2015). The House adopted the bill, unamended.

Senate Action

Senate Finance Committee (April 21, 2015). At the hearing, representatives of SunEdison, NextEra Energy Resources, the Interwest Energy Alliance, and the Colorado Farm Bureau testified in support of the bill. A representative of the Colorado Fiscal Institute testified in opposition to the bill. The committee referred the bill, unamended, to the Senate Appropriations Committee.

Senate Appropriations Committee (April 24, 2015). The committee referred the bill, unamended, to the Senate Committee of the Whole.

Senate second reading (April 28, 2015). The Senate Committee of the Whole adopted amendment no. 1, which repeals the income tax credit refund on January 1, 2021. The Senate Committee of the Whole adopted the bill, as amended.

Senate third reading (April 29, 2015). The Senate adopted the bill, unamended.

House Action

House Considered Senate Amendments (April 30, 2015). The House concurred with Senate amendments to the bill and the bill was repassed.



Legislative Council Staff

Research Note

Bill Number: HB15-1121

Short Title: *Wind Energy Development Agreement Recording & Expiration*

Prime Sponsors: Representative Becker J.
Senator Sonnenberg

Research Analyst: Matt Kiszka (x6275)

Current Status

This research note reflects the final version of the bill, which became effective on August 5, 2015, as no referendum petition was filed.

Summary

This bill modifies the statute governing wind energy agreements between surface estate owners and wind energy developers. The bill establishes that until an agreement is recorded with the county clerk and recorder in the county where the land subject to the agreement is located, the agreement is not binding on anyone other than the parties to the agreement and those with notice of the agreement. The agreement and any associated releases must be recorded in both the grantor and grantee indices and under the names of all parties. The bill defines a wind energy developer of record as the developer named in an agreement recorded in county land records. Rights under a recorded agreement executed on or after July 1, 2012, expire after 15 years unless the agreement provides otherwise or unless wind-powered energy generation has occurred on the subject property.

Once a developer has determined to begin construction of generating facilities under an agreement, the developer may record an affidavit with the county clerk and recorder stating when construction will begin. If no affidavit is recorded, the developer's rights expire after 15 years unless the agreement provides otherwise. If a recorded agreement expires or is terminated, the wind energy developer of record is required to record a release. If the developer fails to do so within a specified period, the developer and any transferee of the developer's rights under the agreement are jointly and severally liable for any damages to the surface owner that result from the failure to record the release.

Background

In 2012, the General Assembly passed House Bill 12-1105, which determined that a wind

energy right is not severable from the surface estate, unlike oil and gas, mineral, or water rights, which can be separately conveyed. The bill allowed for wind energy to be developed pursuant to a wind energy agreement, which may be styled as 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 land subject to agreement is located. Statute also defines the procedure for release from a wind energy agreement that has terminated and for reversion of wind energy rights that have been idle or undeveloped for a continuous period of 15 years.

House Action

House Transportation and Energy Committee (January 28, 2015). At the hearing, the representatives of the Land Title Association of Colorado and the Colorado Bar Association testified in support of the bill. The committee referred the bill, unamended, to the House Committee of the Whole.

House second reading (February 2, 2015). The House Committee of the Whole adopted the committee report and the bill.

House third reading (February 3, 2015). The House adopted the bill, unamended.

Senate Action

Senate Agriculture, Natural Resources, and Energy Committee (February 19, 2015). At the hearing, representatives of the Land Title Association of Colorado and the Colorado Bar Association testified in support of the bill. The committee referred the bill, unamended, to the Senate Committee of the Whole, with a recommendation that it be placed on the consent calendar.

Senate second reading (February 24, 2015). The Senate Committee of the Whole adopted the bill, unamended.

Senate third reading (February 26, 2015). The Senate adopted the bill, unamended.



Legislative Council Staff

Research Note

Bill Number: SB15-271

Short Title: *Continuation Of The Office Of Consumer Counsel*

Prime Sponsors: Senator Sonnenberg
Representative Becker J.

Research Analyst: Jeanette Chapman (x4657)

Current Status

This research note reflects the final version of the bill, which was signed by the Governor and became effective on June 5, 2015.

Summary

The bill continues the Office of Consumer Counsel (OCC) until 2021. In addition, the bill continues the Utility Consumers' Board (UCB) indefinitely and makes the following changes to membership of the UCB:

- specifies that 7 of the 11 members of the UCB must be appointed by the Governor;
- requires that the Governor appoint members from each of the seven congressional districts, at least one member who is actively engaged in agriculture, and at least two members who are owners of small businesses;
- specifies that no more than four of the members appointed by the Governor may be from the same political party; and
- requires that the remaining four members of the board be appointed by members of legislative leadership.

The bill also removes telephone utilities from the purview of the OCC and UCB.

Background

The OCC was established in 1984 to advocate for the public interest and the specific interests of residential, small business, and agricultural consumers in electric, gas, and telephone

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rate and rule making cases before the Public Utilities Commission (PUC), federal regulatory agencies, and in the courts. The OCC may also appeal any PUC decision to the Colorado courts. The UCB consists of 11 members charged with representing the public interest of Colorado utility users by providing general policy guidance and oversight for the OCC.

2014 Sunset Review. In 2014, the Department of Regulatory Agencies conducted a sunset review of the OCC and UCB. The report made the following recommendations:

- continue the OCC until 2026;
- rename the Office of Consumer Counsel to the Office of the Utility Consumer Advocate;
- continue the Utility Consumers' Board and repeal its sunset provision; and
- limit UCB members to two consecutive four-year terms.

Senate Action

Senate Business, Labor, and Technology Committee (April 29, 2015). At the hearing, the Department of Regulatory Agencies spoke in opposition to eliminating oversight of telephone utilities by the OCC. Representatives of the Colorado Technology Association, CenturyLink, and Energy Outreach Colorado testified in support of the bill. Representatives of AARP and Colorado Common Cause testified in opposition to the bill. The committee adopted amendment L.001, which specifies that the Governor appoints seven members of the UCB and requires that the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives each appoint one member. The amendment also requires that the Governor's appointees include a representative from each congressional district, at least one member be engaged in the business of agriculture and at least two members be small business owners. The committee also adopted amendment L.003, which makes a technical change to the requirements for reimbursement of UCB member expenses. The committee referred the bill, as amended, to the Senate Committee of the Whole.

Senate second reading (May 1, 2015). The Senate Committee of the Whole adopted the bill, as amended by the Business, Labor, and Technology Committee, on second reading.

Senate third reading (May 4, 2015). The Senate adopted the bill, unamended, on third reading.

House Action

House Transportation and Energy Committee (May 5, 2015). At the hearing, representatives from Colorado Common Cause and AARP testified in support of the bill if amended to include telecommunications providers under the OCC's purview. The committee adopted amendment L.009, which retains oversight of telecommunications providers by the OCC and UCB. The committee referred the bill, as amended, to the House Committee of the Whole.

House second reading (May 5, 2015). The House Committee of the Whole adopted the House Transportation and Energy Committee report and amendment L.010, which requires that current board members be removed from the board effective July 1, 2015, and new members be

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appointed or reappointed in accordance with the bill's new appointment requirements. The bill was adopted, as amended, on second reading.

House third reading (May 6, 2015). The House adopted the bill, unamended, on third reading.

Other Actions

Senate Consideration of House Amendments (May 6, 2015). The Senate did not accept the House amendments and voted to adhere to its original position.

House Consideration of Senate Adherence (May 7, 2015). The House voted to recede from its position and repassed the bill as amended by the Senate.



Legislative Council Staff

Research Note

Bill Number: SB15-261

Short Title: *Utility's Public Notice Of Schedule Changes*

Prime Sponsors: Senator Sonnenberg
Representative Young

Research Analyst: Conrad Imel (x2756)

Current Status

This research note reflects the final version of the bill, which became effective on August 5, 2015.

Summary

Under prior law, certain utilities were to provide notice of an increase or other change in any rate, fare, toll, rental, charge, classification, or service in a manner provided explicitly in statute or by another manner upon application to the Public Utility Commission (PUC). Senate Bill 15-261 removes the requirement that a utility wishing to use another manner of notice make an application to the PUC, and permits such utilities to use another manner of notice by making a request of the PUC.

Background

Under prior law, all public utilities, with the exception of rail carriers, must provide notice to the public and the PUC at least 30 days before any change is made to any rate, fare, toll, rental, charge, classification, service, privilege, or facility. Such notice is required to be given by filing with the PUC and keeping open for public inspection a new schedule that states plainly the changes to be made and the time when the changes will go into effect. Transportation and water utilities are may be required by PUC rules to give other specific notices. Other applicable utilities must provide one additional form of public notice by newspaper publication, mailing, bill insert, or another method which the PUC may approve through an application process. An application process, unlike the request required by Senate Bill 15-261, requires opening a new proceeding before the PUC.

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Senate Action

Senate Judiciary Committee (April 20, 2015). The committee heard testimony in support of the bill from representatives of Atmos Energy, Black Hills Energy, Source Gas Distribution, Rocky Mountain Natural Gas, and the PUC. There was no testimony in opposition to the bill. The committee referred the bill, unamended, to the Senate Committee of the Whole, with a recommendation that it be placed on the consent calendar.

Senate second reading (April 23, 2015). The Senate Committee of the Whole passed the bill, unamended, on second reading.

Senate third reading (April 24, 2015). The Senate adopted the bill on third reading.

House Action

House Judiciary Committee (April 30, 2015). The committee heard testimony in support of the bill from representatives of Atmos Energy, SourceGas LLC, and the PUC. There was no testimony in opposition to the bill. The committee referred the bill, unamended, to the House Committee of the Whole.

House second reading (April 30, 2015). The Committee of the Whole passed the bill, unamended, on second reading.

House third reading (May 1, 2015). The House passed the bill on third reading.

Relevant Research

"How Utility Rates and Determined," Colorado Department of Regulatory Agencies, Public Utilities Commission (2013): <http://tinyurl.com/puxpzzd>.

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Legislative Council Staff

Research Note

Bill Number: SB15-046

Short Title: *Renewable Energy Std Adjust REAs Distributed Gen*

Prime Sponsors: Senator Grantham
Representative Moreno

Research Analyst: David Beaujon (x4781)

Current Status

Summary

Background

Relevant Research

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