

## CHAPTER 298

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**PUBLIC UTILITIES**

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**SENATE BILL 04-168**

BY SENATOR(S) Phillips, Fitz-Gerald, Gordon, Groff, Grossman, Hanna, Kester, Tapia, and Windels;  
also REPRESENTATIVE(S) Spradley, Borodkin, Boyd, Carroll, Coleman, Frangas, Garcia, Hefley, Jahn, Larson, Madden,  
Marshall, McFadyen, McGihon, Merrifield, Paccione, Plant, Pommer, Romanoff, Rose, Salazar, Tochtrop, Weddig, Williams S.,  
Butcher, and Stafford.

**AN ACT****CONCERNING RURAL RENEWABLE ELECTRIC RESOURCES IN COLORADO.**

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

**SECTION 1.** Part 2 of article 56 of title 7, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**7-56-210. Renewable energy cooperatives.** (1) IT IS THE POLICY OF THIS STATE TO ENCOURAGE LOCAL OWNERSHIP OF RENEWABLE ENERGY GENERATION FACILITIES TO IMPROVE THE FINANCIAL STABILITY OF RURAL COMMUNITIES.

(2) SUBJECT TO THE PROVISIONS OF THIS ARTICLE, A RENEWABLE ENERGY COOPERATIVE MAY BE ORGANIZED FOR THE PURPOSE OF PROMOTING ELECTRIC ENERGY EFFICIENCY TECHNOLOGIES TO ITS MEMBERS, GENERATING ELECTRICITY FROM RENEWABLE RESOURCES AND TECHNOLOGIES, AND TRANSMITTING AND SELLING THE ELECTRICITY AT WHOLESALE.

(3) FOR PURPOSES OF THIS SECTION, "RENEWABLE RESOURCES OR TECHNOLOGIES" MEANS BIOMASS, GEOTHERMAL ENERGY, SOLAR ENERGY, SMALL HYDROELECTRICITY, AND WIND ENERGY. HYDROGEN DERIVED FROM BIOMASS, GEOTHERMAL ENERGY, SOLAR ENERGY, SMALL HYDROELECTRICITY, AND WIND ENERGY IS ALSO CONSIDERED TO BE RENEWABLE ENERGY FOR THE PURPOSES OF THIS ARTICLE. "RENEWABLE RESOURCES OR TECHNOLOGIES" DOES NOT INCLUDE PUMPED STORAGE FACILITIES; HYDROELECTRICITY OTHER THAN SMALL HYDROELECTRICITY; COAL, NATURAL GAS, OIL, PROPANE, OR ANY OTHER FOSSIL FUEL; OR NUCLEAR ENERGY. "RENEWABLE RESOURCES OR TECHNOLOGIES" ALSO DOES NOT INCLUDE HYDROGEN DERIVED FROM PUMPED STORAGE FACILITIES; HYDROELECTRICITY OTHER THAN SMALL

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

HYDROELECTRICITY; COAL, NATURAL GAS, OIL, PROPANE, OR ANY OTHER FOSSIL FUEL; OR NUCLEAR ENERGY.

**SECTION 2.** Part 5 of article 56 of title 7, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**7-56-510. Renewable energy cooperatives - powers.** (1) IN ADDITION TO THE POWERS GRANTED IN THIS ARTICLE, RENEWABLE ENERGY COOPERATIVES MAY GENERATE ELECTRICITY FROM RENEWABLE RESOURCES OR TECHNOLOGIES AND TRANSMIT AND SELL ELECTRICITY AT WHOLESALE.

(2) NO RENEWABLE ENERGY COOPERATIVE SHALL SELL ELECTRICITY AT RETAIL OR HAVE A CERTIFICATED TERRITORY IN THE STATE EXCEPT AS ALLOWED FOR ITS OWN SERVICE OR PURSUANT TO PUBLIC UTILITY LAW OR OTHER LEGAL AUTHORITY.

**SECTION 3.** Part 1 of article 75 of title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**35-75-111.5. Issuance of bonds to construct renewable energy generation facilities and electric transmission lines - renewable energy cooperatives.**

(1) TO FACILITATE THE TRANSMISSION OF ELECTRICITY GENERATED BY A RENEWABLE ENERGY COOPERATIVE ESTABLISHED PURSUANT TO SECTION 7-56-210, C.R.S., THE AUTHORITY MAY ISSUE REVENUE BONDS IN AMOUNTS SUFFICIENT TO PAY THE FOLLOWING DESCRIBED COSTS OF CONSTRUCTION, UPGRADING, AND ACQUISITION, INCLUDING ANY REQUIRED INTEREST ON THE BONDS DURING CONSTRUCTION, UPGRADING, AND ACQUISITION, PLUS ALL AMOUNTS REQUIRED FOR THE COSTS OF BOND ISSUANCE AND ANY REQUIRED RESERVES ON THE BONDS:

(a) CONSTRUCTION OF RENEWABLE ENERGY GENERATION FACILITIES;

(b) CONSTRUCTION OR UPGRADING OF ELECTRIC TRANSMISSION LINES AND APPURTENANCES TO BE USED FOR THE TRANSFER OF ELECTRICITY AT ONE HUNDRED FIFTEEN KILOVOLTS OR GREATER;

(c) ACQUISITION OF THE RIGHT-OF-WAY ON WHICH RENEWABLE ENERGY GENERATION FACILITIES OR ELECTRIC TRANSMISSION LINES AND APPURTENANCES TO BE USED FOR THE TRANSFER OF ELECTRICITY AT ONE HUNDRED FIFTEEN KILOVOLTS OR GREATER ARE TO BE CONSTRUCTED; AND

(d) CONSTRUCTION OR UPGRADING OF ELECTRIC DISTRIBUTION LINES AND APPURTENANCES TO BE USED TO CONNECT RENEWABLE RESOURCES OR TECHNOLOGIES TO ELECTRIC TRANSMISSION LINES AND APPURTENANCES.

(2) REVENUE BONDS, AND INTEREST THEREON, ISSUED PURSUANT TO THIS SECTION SHALL BE PAYABLE FROM REVENUES DERIVED FROM USE OF THE RENEWABLE ENERGY GENERATION FACILITIES OR ELECTRIC TRANSMISSION LINES CONSTRUCTED, UPGRADED, OR ACQUIRED THROUGH THE USE OF BOND PROCEEDS.

(3) REVENUE BONDS, INCLUDING REFUNDING REVENUE BONDS, ISSUED HEREUNDER SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE, NOR SHALL THEY CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR

## STATUTORY PROVISION LIMITING THE INCURRING OF INDEBTEDNESS.

(4) THE PROCEEDS OF BONDS, REVENUES, AND RECEIPTS DERIVED FROM THE CONSTRUCTION, UPGRADING, OR ACQUISITION ACTIVITIES DESCRIBED IN THIS SECTION THAT ARE FINANCED IN WHOLE OR IN PART BY THE BONDS, AND INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF SUCH PROCEEDS, REVENUES, AND RECEIPTS, SHALL NOT BE INCLUDED IN STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ARTICLE 77 OF TITLE 24, C.R.S.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS AUTHORIZING THE CONTRACTING BY THE STATE OF A DEBT OR LOAN IN ANY FORM, NOR THE PLEDGING OF THE GENERAL TAXES OF THE STATE. REVENUE BONDS ISSUED PURSUANT TO THIS SECTION SHALL NOT BE CONSTRUED TO BE MORAL OBLIGATION BONDS. THE OWNERS OR HOLDERS OF SUCH BONDS SHALL NOT LOOK TO ANY OTHER REVENUES OF THE STATE FOR THE PAYMENT OF THE BONDS; SHALL NOT LOOK TO ANY LEGAL, EQUITABLE, OR MORAL OBLIGATION ON THE PART OF THE STATE TO PAY ANY PORTION OF THE BONDS; AND SHALL NOT LOOK TO THE STATE GENERAL FUND OR ANY OTHER FUND OF THE STATE FOR THE PAYMENT OF PRINCIPAL OR INTEREST OF SUCH OBLIGATION.

(6) REVENUE BONDS, INCLUDING REFUNDING REVENUE BONDS, ISSUED HEREUNDER AND THE INCOME DERIVED THEREFROM SHALL BE EXEMPT FROM ALL STATE, COUNTY, AND MUNICIPAL TAXATION IN THE STATE, EXCEPT COLORADO ESTATE TAXES.

**SECTION 4.** Article 3 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**40-3-107.5. Interconnection with renewable energy cooperatives.** ELECTRIC UTILITIES SHALL INTERCONNECT WITH RENEWABLE ENERGY COOPERATIVES ORGANIZED PURSUANT TO SECTION 7-56-210, C.R.S. EVERY RENEWABLE ENERGY COOPERATIVE THAT DESIRES TO INTERCONNECT ITS SYSTEM WITH ANY FACILITIES OWNED OR OPERATED BY A PUBLIC UTILITY SHALL COMPLY WITH APPLICABLE INTERCONNECTION RULES AND WITH REASONABLE STANDARDS AND POLICIES RELATED TO THE RELIABILITY OF THE PUBLIC UTILITY SYSTEM. ALL SUCH STANDARDS AND POLICIES, AS WELL AS ALL COSTS FOR THE INTERCONNECTION SHALL BE FAIR, REASONABLE, AND NONDISCRIMINATORY TO EACH RENEWABLE ENERGY COOPERATIVE.

**SECTION 5. 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, 2004