

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 15-1068.01 Duane Gall x4335

HOUSE BILL 15-1377

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HOUSE SPONSORSHIP

Moreno and Becker J.,

SENATE SPONSORSHIP

(None),

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**House Committees**  
Transportation & Energy

**Senate Committees**

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A BILL FOR AN ACT

101 CONCERNING THE ABILITY OF COOPERATIVE ELECTRIC ASSOCIATIONS  
102 TO OBTAIN RENEWABLE ENERGY CREDITS THROUGH THE  
103 OPERATION OF SHARED RETAIL DISTRIBUTED GENERATION  
104 FACILITIES.

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Under existing law governing the creation and operation of community solar gardens, shared renewable energy generation facilities are expressly limited to solar technologies. The bill adopts a concept

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

similar to that of community solar gardens, but allows any other type of retail distributed generation, including small wind, small hydroelectric, geothermal, and biomass, to be used.

The new provisions are added to the law governing cooperative electric associations (co-ops), allowing co-ops to use the production from these shared facilities to meet their retail distributed generation requirements under Colorado's renewable energy standard. Subscribers of the shared facilities must be members of the co-op in whose service territory the facility is located, and the renewable energy credits must be allocated to a physical address within that service territory.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 40-9.5-119 as  
3 follows:

4 **40-9.5-119. Distributed generation facilities - subscriptions -**  
5 **allocation of renewable energy credits. (1) Definitions.** FOR PURPOSES  
6 OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "CUSTOMER-GENERATOR" MEANS AN END-USE ELECTRICITY  
8 CUSTOMER THAT GENERATES ELECTRICITY ON THE CUSTOMER'S SIDE OF  
9 THE METER USING RENEWABLE ENERGY RESOURCES.

10 (b) "DISTRIBUTED GENERATION FACILITY" MEANS AN ELECTRIC  
11 GENERATION FACILITY, OTHER THAN A COMMUNITY SOLAR GARDEN AS  
12 DEFINED IN SECTION 40-2-127, THAT USES RENEWABLE ENERGY  
13 RESOURCES, HAS A NAMEPLATE RATING OF TWO MEGAWATTS OR LESS, AND  
14 IS LOCATED WITHIN THE SERVICE TERRITORY OF A COOPERATIVE ELECTRIC  
15 ASSOCIATION WHERE THE BENEFICIAL USE OF THE ELECTRICITY  
16 GENERATED BY THE FACILITY BELONGS TO ITS SUBSCRIBERS. THERE MUST  
17 BE AT LEAST FOUR SUBSCRIBERS, ALL OF WHOM MUST BE MEMBERS OF THE  
18 COOPERATIVE ELECTRIC ASSOCIATION.

19 (c) "RENEWABLE ENERGY RESOURCES" HAS THE MEANING  
20 ESTABLISHED IN SECTION 40-2-124 (1) (a) (VII).

1 (d) "RETAIL DISTRIBUTED GENERATION" HAS THE MEANING  
2 ESTABLISHED IN SECTION 40-2-124 (1) (a) (VIII).

3 (e) "SUBSCRIBER" MEANS A MEMBER OF THE COOPERATIVE  
4 ELECTRIC ASSOCIATION IN WHOSE SERVICE TERRITORY THE DISTRIBUTED  
5 GENERATION FACILITY THAT IS ASSOCIATED WITH THE SUBSCRIPTION IS  
6 LOCATED AND WHO HAS IDENTIFIED ONE OR MORE PHYSICAL LOCATIONS  
7 TO WHICH THE SUBSCRIPTION IS ATTRIBUTED. EACH OF THESE PHYSICAL  
8 LOCATIONS MUST BE WITHIN THE SERVICE TERRITORY OF THE  
9 COOPERATIVE ELECTRIC ASSOCIATION OF WHICH THE SUBSCRIBER IS A  
10 MEMBER AND IN WHICH THE DISTRIBUTED GENERATION FACILITY IS  
11 LOCATED. THE SUBSCRIBER MAY CHANGE THE PHYSICAL LOCATION TO  
12 WHICH THE ELECTRICITY GENERATED BY THE DISTRIBUTED GENERATION  
13 FACILITY IS ATTRIBUTED IF THE PHYSICAL LOCATION IS WITHIN THE  
14 SERVICE TERRITORY OF THE COOPERATIVE ELECTRIC ASSOCIATION OF  
15 WHICH THE SUBSCRIBER IS A MEMBER AND IN WHICH THE DISTRIBUTED  
16 GENERATION FACILITY IS LOCATED.

17 (f) "SUBSCRIPTION" MEANS A PROPORTIONAL INTEREST IN A  
18 DISTRIBUTED GENERATION FACILITY, TOGETHER WITH THE RENEWABLE  
19 ENERGY CREDITS ASSOCIATED WITH OR ATTRIBUTABLE TO THE FACILITY  
20 UNDER SECTION 40-2-124. EACH SUBSCRIPTION MUST BE SIZED TO  
21 REPRESENT AT LEAST ONE KILOWATT OF THE FACILITY'S GENERATING  
22 CAPACITY AND TO SUPPLY NO MORE THAN ONE HUNDRED TWENTY  
23 PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY BY THE  
24 SUBSCRIBER AT THE PHYSICAL LOCATION TO WHICH THE SUBSCRIPTION IS  
25 ATTRIBUTED. SUBSCRIPTIONS IN A DISTRIBUTED GENERATION FACILITY  
26 MAY BE TRANSFERRED OR ASSIGNED TO A SUBSCRIBER ORGANIZATION OR  
27 TO ANY PERSON OR ENTITY WHO QUALIFIES AS A SUBSCRIBER UNDER

1 PARAGRAPH (e) OF THIS SUBSECTION (1).

2 (2) FOR PURPOSES OF A COOPERATIVE ELECTRIC ASSOCIATION'S  
3 COMPLIANCE WITH THE RETAIL DISTRIBUTED GENERATION REQUIREMENT  
4 OF SECTION 40-2-124 (1) (c) (II) (A):

5 (a) AN ELECTRIC GENERATION FACILITY THAT USES ANY  
6 RENEWABLE ENERGY RESOURCE AND THAT MEETS THE REQUIREMENTS OF  
7 THIS SECTION QUALIFIES AS RETAIL DISTRIBUTED GENERATION UNDER  
8 SECTION 40-2-124 (1) (c) (II) (A).

9 (b) THE OWNER OF THE DISTRIBUTED GENERATION FACILITY MAY  
10 BE A COOPERATIVE ELECTRIC ASSOCIATION, AN INDIVIDUAL RESIDENT OF  
11 A COMMUNITY, AN ORGANIZATION OR COOPERATIVE THAT IS CONTROLLED  
12 BY INDIVIDUAL RESIDENTS OF A COMMUNITY, A LOCAL GOVERNMENT  
13 ENTITY OR TRIBAL COUNCIL, OR ANY OTHER FOR-PROFIT OR NONPROFIT  
14 ENTITY OR ORGANIZATION, INCLUDING A SUBSCRIBER ORGANIZATION  
15 ORGANIZED FOR THE SOLE PURPOSE OF BENEFICIALLY OWNING AND  
16 OPERATING A DISTRIBUTED GENERATION FACILITY, WHICH ASSOCIATION,  
17 INDIVIDUAL, ORGANIZATION, OR ENTITY CONTRACTS TO SELL THE OUTPUT  
18 FROM THE DISTRIBUTED GENERATION FACILITY TO THE COOPERATIVE  
19 ELECTRIC ASSOCIATION. A THIRD PARTY UNDER CONTRACT WITH A  
20 SUBSCRIBER ORGANIZATION MAY ALSO BUILD, OWN, AND OPERATE THE  
21 DISTRIBUTED GENERATION FACILITY.

22 (c) NEITHER THE OWNERS OF NOR THE SUBSCRIBERS TO A  
23 DISTRIBUTED GENERATION FACILITY ARE A PUBLIC UTILITY SUBJECT TO  
24 REGULATION BY THE COMMISSION SOLELY AS A RESULT OF THEIR INTEREST  
25 IN THE DISTRIBUTED GENERATION FACILITY. THE PRICE PAID FOR A  
26 SUBSCRIPTION IN A DISTRIBUTED GENERATION FACILITY, REGARDLESS OF  
27 THE FORM OF OWNERSHIP OF THE FACILITY, IS NOT SUBJECT TO

1 REGULATION BY THE COMMISSION.

2 (d) THE OUTPUT FROM A DISTRIBUTED GENERATION FACILITY MUST  
3 BE SOLD ONLY TO THE COOPERATIVE ELECTRIC ASSOCIATION SERVING THE  
4 GEOGRAPHIC AREA WHERE THE DISTRIBUTED GENERATION FACILITY IS  
5 LOCATED. THE AMOUNT OF ELECTRICITY AND RENEWABLE ENERGY  
6 CREDITS GENERATED BY EACH DISTRIBUTED GENERATION FACILITY SHALL  
7 BE DETERMINED BY A PRODUCTION METER INSTALLED BY THE  
8 COOPERATIVE ELECTRIC ASSOCIATION OR THIRD-PARTY SYSTEM OWNER  
9 AND PAID FOR BY THE OWNER OF THE DISTRIBUTED GENERATION FACILITY.

10 (e) THE PURCHASE OF THE OUTPUT OF A DISTRIBUTED GENERATION  
11 FACILITY BY A COOPERATIVE ELECTRIC ASSOCIATION MUST TAKE THE  
12 FORM OF A MONETARY CREDIT AGAINST THE COOPERATIVE ELECTRIC  
13 ASSOCIATION'S BILL TO EACH DISTRIBUTED GENERATION FACILITY OWNER  
14 OR SUBSCRIBER AT THE PREMISES SET FORTH IN THE SUBSCRIBER'S  
15 SUBSCRIPTION. IF THE ELECTRICITY OUTPUT OF THE DISTRIBUTED  
16 GENERATION FACILITY IS NOT FULLY SUBSCRIBED, THE QUALIFYING RETAIL  
17 UTILITY SHALL PURCHASE THE UNSUBSCRIBED RENEWABLE ENERGY AND  
18 THE RENEWABLE ENERGY CREDITS AT A RATE EQUAL TO THE QUALIFYING  
19 RETAIL UTILITY'S AVERAGE HOURLY INCREMENTAL COST OF ELECTRICITY  
20 SUPPLY OVER THE IMMEDIATELY PRECEDING CALENDAR YEAR.

21 (f) THE OWNER OF THE DISTRIBUTED GENERATION FACILITY SHALL  
22 PROVIDE REAL-TIME PRODUCTION DATA TO THE COOPERATIVE ELECTRIC  
23 ASSOCIATION TO FACILITATE INCORPORATION OF THE DISTRIBUTED  
24 GENERATION FACILITY INTO THE COOPERATIVE ELECTRIC ASSOCIATION'S  
25 OPERATION OF ITS ELECTRIC SYSTEM AND TO FACILITATE THE PROVISION  
26 OF CREDITS.

27 (g) THE OWNER OF THE DISTRIBUTED GENERATION FACILITY SHALL

1 PROVIDE TO THE COOPERATIVE ELECTRIC ASSOCIATION, ON A MONTHLY  
2 BASIS AND WITHIN REASONABLE PERIODS SET BY THE COOPERATIVE  
3 ELECTRIC ASSOCIATION, THE PERCENTAGE OF SHARES THAT SHOULD BE  
4 USED TO DETERMINE THE CREDIT TO EACH SUBSCRIBER.

5 (h) WITHIN SIXTY DAYS AFTER THE END OF EACH ANNUAL PERIOD  
6 OR WITHIN SIXTY DAYS AFTER A SUBSCRIBER TERMINATES ITS RETAIL  
7 SERVICE, THE COOPERATIVE ELECTRIC ASSOCIATION SHALL ACCOUNT FOR  
8 ANY EXCESS ENERGY GENERATION, EXPRESSED IN KILOWATT-HOURS,  
9 ACCRUED BY THE SUBSCRIBER AND SHALL CREDIT THE EXCESS  
10 GENERATION TO THE SUBSCRIBER IN A MANNER DEEMED APPROPRIATE BY  
11 THE COOPERATIVE ELECTRIC ASSOCIATION.

12 **SECTION 2. Act subject to petition - effective date.** This act  
13 takes effect at 12:01 a.m. on the day following the expiration of the  
14 ninety-day period after final adjournment of the general assembly (August  
15 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a  
16 referendum petition is filed pursuant to section 1 (3) of article V of the  
17 state constitution against this act or an item, section, or part of this act  
18 within such period, then the act, item, section, or part will not take effect  
19 unless approved by the people at the general election to be held in  
20 November 2016 and, in such case, will take effect on the date of the  
21 official declaration of the vote thereon by the governor.