

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated March 2, 2010)

Drafting Number: LLS 10-0981	Date: April 7, 2010
Prime Sponsor(s): Sen. Schwartz; Gibbs Rep. Scanlan	Bill Status: House Transportation & Energy
	Fiscal Analyst: Marc Carey (303-866-4102)

TITLE: CONCERNING THE PROMOTION OF CLEAN ENERGY TECHNOLOGIES.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
State Expenditures School Finance*		Potential Increased Expenditures
FTE Position Change		
Effective Date: August 11, 2010, assuming the General Assembly adjourns May 12, 2010, as scheduled and no referendum petition is filed.		
Appropriation Summary for FY 2010-2011: None required.		
Local Government Impact: See Local Government Impact section.		

* *This expenditure could be from the General Fund or the State Education Fund.*

Summary of Legislation

SB10-177 defines "biomass energy facility" as one where:

- energy production begins on or after January 1, 2010;
- electrical or mechanical energy are produced from the combustion of only biomass or biosolids derived from wastewater treatment; and
- the facility is designed to supply electricity for off-site consumption.

For purposes of property taxation, the bill specifies that such a facility is to be valued in the same manner as wind and solar energy facilities, using the income approach. This means that the actual value is based on the projected gross revenue of such facilities, as measured in nominal dollars. This method contrasts with the traditional cost approach, where property taxes decline over time as assets depreciate. Because of this change, property taxes are lower in early years of operation, but increase to relatively higher levels in later years. Over a 20-year horizon, total property tax revenue remains unchanged.

Beginning July 1, 2013, the bill also provides a property tax and specific ownership tax exemption for equipment used in forestry operations.

The bill also specifies that when the Colorado Public Utilities Commission (PUC) is considering energy generation acquisitions by electric utilities, these facilities qualify as "new clean energy and energy-efficient technologies." Further, the bill authorizes the PUC to give the fullest possible consideration to generation from the combustion of biomass, biosolids derived from the treatment of wastewater, and municipal solid waste.

Finally, the bill makes three changes to the renewable energy credit system used by utilities to comply with the Amendment 37 renewable portfolio standard (RPS). First, it requires the PUC to allow the use of credits from eligible energy resources provided the resource meets the statutory definition. Second, it stipulates that once a utility enters into a contract using a certain definition of eligible energy resources, that definition remains in place throughout the term of the contract, regardless of changes to the statutory definition that occur during that time period. Third, if a generation system uses both fossil fuel and eligible energy resources, non-investor-owned utilities may count only the electricity generated from eligible resources for purposes of RPS compliance.

State Expenditures

School Finance Impact. As part of the school finance act, K-12 education in Colorado is funded with state aid and local property tax revenue. If property tax revenue declines, the state is required to increase its aid to make up the difference.

To the degree that qualifying biomass energy facilities that would have been put into service without the bill begin operating after January 1, 2010, state aid for local school districts will increase in the short term and decrease in the long term. This will potentially increase state aid for school finance starting in FY 2011-12. Beginning on July 1, 2013, the property and specific ownership tax exemption for equipment used in forestry operations may also create the need for additional state aid to offset reduced property tax collections for school districts.

Local Government Impact

Local governments may lose tax revenue because of the bill's provision to provide a property tax and specific ownership tax exemption for certain forestry equipment. In the short term, they may also lose property tax revenue because of using the income approach to value new biomass energy facilities. For local governments that consistently reach their revenue limit due to high assessed value growth, the impact of the bill will be felt through smaller decreases in the mill levy. A portion of the money that would have been received from biomass energy facilities or forestry equipment taxpayers will instead be spread out over the remaining tax bills in the form of higher mill levies than would have occurred without the bill. For local governments that do not reach their revenue limit, the bill will reduce property taxes.

Departments Contacted

Local Affairs

Regulatory Agencies