



Climate Change Statutes

STATE OF COLORADO

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [Climate Change Statutes](#).

Current through the 2010 Legislative Session of the Colorado General Assembly.

§ 32-20-102. Legislative declaration

(1) The general assembly hereby finds and declares that:

(a) It is in the best interest of the state and its citizens and a public purpose to enable and encourage the owners of eligible real property to invest in new energy improvements, including energy efficiency improvements and renewable energy improvements, sooner rather than later by creating the Colorado new energy improvement district and authorizing the district to establish, develop, finance, implement, and administer a new energy improvement program that includes both energy efficiency improvements and renewable energy improvements to assist any such owners who choose to join the district in completing new energy improvements to their property because:

(I) New energy improvements, including energy efficiency improvements and renewable energy improvements, help protect owners of eligible real property from the financial impact of the rising cost of electricity produced from nonrenewable fuels and can even provide positive cash flow in many instances in which the costs of the improvements are spread out over a long enough time so that the owners' utility bill cost savings exceed the special assessments levied on the eligible real property to pay for the improvements;

(II) The inclusion of both energy efficiency improvements and renewable energy improvements in the new energy improvement program will help to promote informed choices and maximize the benefits of the program for both individual owners of eligible real property and society as a whole;

(III) Reduction in the amount of emissions of greenhouse gases and environmental pollutants resulting from decreased use of traditional nonrenewable fuels will improve air quality and may help to mitigate climate change;

(IV) New energy improvements, including energy efficiency improvements and renewable energy improvements, increase the value of the eligible real property improved;

(V) The commitment of a significant amount of sustainable funding for increased construction of new energy improvements will create jobs and stimulate the state economy:

(A) By directly creating jobs for contractors and other persons who complete new energy improvements; and

(B) By reinforcing the leadership role of the state in the new energy economy and thereby attracting new energy manufacturing facilities and related jobs to the state; and

(VI) The new energy improvement program provides a meaningful, practical opportunity for average citizens to take action that will benefit their personal finances and the economy of the state, promote their own and the nation's energy independence and security, and help sustain the environment; and

(b) In many cases, the owner of eligible real property is unable to fund a new energy improvement because the owner does not have sufficient liquid assets to directly fund the improvement and is unable or unwilling to incur the negative net cash flow likely to result if the owner uses a typical home equity loan or line of credit or other loan to fund the improvement.

(2) The general assembly further finds and declares that it is necessary, appropriate, and legally permissible under section 20 of article X of the state constitution and all other constitutional provisions and laws to authorize the Colorado new energy improvement district, without voter approval in advance, to generate the capital needed to reimburse owners of eligible real property who voluntarily join the district for, or directly pay for all or a portion of the cost of, completing new energy improvements, including energy efficiency improvements and renewable energy improvements, to the property by levying special assessments and issuing special assessment bonds to be paid from the revenues generated by the special assessments because:

(a) Under the Colorado supreme court's decision in *Campbell v. Orchard Mesa Irrigation District*, 972 P.2d 1037 (Colo. 1998), the Colorado new energy improvement district is neither the state nor a local government and therefore is not a district, as defined in section 20 (2) (b) of article X of the state constitution, subject to the requirements of section 20 of article X of the state constitution because:

(I) The district is not authorized to levy general taxes;

(II) Although the district is a public corporation that serves the public purposes of promoting new energy improvements and creating jobs, it does not have elected board members and primarily exists to serve the interests of owners of eligible real property who voluntarily join the district in order to fund new energy improvements to the property; and

(III) The district is endowed by the state pursuant to this article with only the powers necessary to perform its predominantly private objective;

(b) There is no legal impediment to the imposition of special assessments and the issuance of special assessment bonds without an election by an entity like the Colorado new energy improvement district that is formed by law, has statewide jurisdiction, and is governed by an appointed board;

(c) The burden of a special assessment is voluntarily assumed by the owner of the eligible real property on which the special assessment is levied because:

(I) A special assessment may only be levied on eligible real property if the owner of the property has voluntarily joined the district, agreed to accept reimbursement or a direct payment, and consented to the levy of a special assessment; and

(II) A subsequent purchaser of eligible real property upon which a special assessment has been levied purchases the property with full knowledge of the special assessment; and

(d) Both an owner of eligible real property who joins the district and receives reimbursement or a direct payment and any subsequent owner of the property receive the special benefit of the new energy improvement for which the district has made reimbursement or a direct payment in proportion to or in excess of the amount of the special assessment paid.