SB 21-020

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 21-0252	**Date:**	June 28, 2021
Prime Sponsors:	Sen. Hansen; Hisey Rep. Valdez A.; Soper	**Bill Status:**	Signed into Law
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Bill Topic: **ENERGY EQUIPMENT & FACILITY PROPERTY TAX VALUATION**

Summary of Fiscal Impact:

☐ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☒ Local Government
☐ Statutory Public Entity

This bill requires clean energy resources, energy storage facilities, and solar facilities with a generation capacity of under 2 megawatts to be valued for property tax purposes using the "income approach" rather than the "cost approach" beginning January 1, 2021. The bill minimally increases state workload beginning in FY 2021-22, and initially reduces local government revenue, though it may increase local government revenue in later years. It may also increase state expenditures for school finance.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Summary of Legislation

This bill specifies that beginning January 1, 2021, clean energy resources and energy storage systems used to store electricity are assessed for valuation for the purpose of property taxation in a similar manner to renewable energy facility property used to generate and deliver electricity; that is using the "income approach" instead of the currently utilized "cost approach."

Under current law, the Property Tax Administrator in the Department of Local Affairs is required to determine the actual value of a small or low impact hydroelectric energy facility, a geothermal energy facility, a biomass energy facility, a wind energy facility, or a solar energy facility using the income approach to valuation only. Valuation under this approach currently involves a 20-year tax factor. This bill extends the period of the tax factor to 30 years for a renewable energy facility that begins generating energy on or after January 1, 2021.

Finally, for property tax years beginning January 1, 2021, the bill requires county assessors to utilize the income approach in valuing all solar energy facilities that generate 2 megawatts or less.

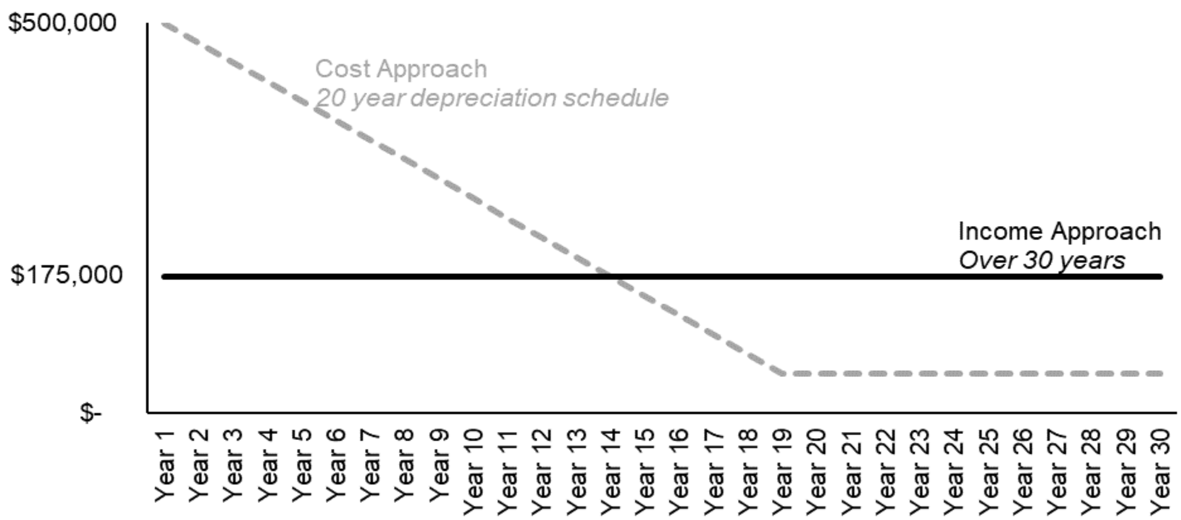
Background

Community solar gardens. As of January 2021, community solar gardens (CSGs) capable of producing approximately 297 megawatts of power had been contracted for distribution by Xcel Energy and Black Hills Energy. These CSG properties are operated independently, and the power is sold for distribution to the utilities. Currently, every CSG in the state is under 2 megawatts and county assessors, rather than the Division of Property Taxation, are responsible for valuing the property.

Valuation for property taxes. CSGs are currently assessed based on the cost method of valuation, where the actual value of a CSG is determined based on the cost to install the property, and the value of the property is depreciated over an expected 20-year life cycle. The bill requires these CSGs to be valued based on the expected income of the property over a 30-year cycle. Valuation would be dependent on specific income information based on the facility's power purchase agreement. The change in valuation methods will result in stable taxes over a 30-year period, rather than declining taxes over a 20-year period.

Figure 1 illustrates methods of valuation of a hypothetical $500,000 property for 30 years. Under the cost approach, the value of the property is $500,000 in year 1 and declines to a residual value of about 10 percent of the original value in year 19. Under the income method, the value is $175,000 each year for 30 years. Compared with current law, the bill will reduce the valuation for property taxes early in the life of the CSG and increase the valuation later in the life of the CSG.

Figure 1
Comparison of Cost and Income Method of Valuation
Original Cost = $500,000



Property tax revenue impact. Senate Bill 20-168, which was not enacted, contained a similar provision for switching the method used in the valuation of CSGs from the cost approach to the income approach. The fiscal note for that bill used data through January 2019 and based on an assumed 123 MW (alternating current) operational in 2021 and 148 MW (alternating current) operational in 2022. According to data from the Public Utilities Commission, an additional 48 MW (alternating current) in CSG capacity came on line in 2019 and 2020. Assuming the same 87 average mills were applied to these new facilities, this reduction in assessed value will reduce local property tax revenue by an estimated $390,000 in FY 2022-23 and $450,000 in FY 2023-24. As Figure 1 shows, however, while the transition from the cost to the income approach will result in a property tax revenue decrease for each individual facility in the early years, there will be a property tax revenue increase in later years. The aggregate revenue change will depend on the number of facilities that come online and the year in which they become operational.

State Expenditures

Division of Property Taxation. The division will update Annual Statements of Property, Notices of Value, valuation templates, website information and other written procedures. Whenever legislative changes occur, the division must also answer an increased number of phone calls and email correspondence with taxpayers. This can be accomplished within existing resources.

The bill also provides that "clean energy resources" and "energy storage systems" will be subject to state assessment by the division. Because the number of these items that are not already subject to state assessment is likely to be small, these workload impacts are also absorbable for the division.

Implementing the changes in valuation for CSGs under 2 MW in capacity will require the division to develop new valuation templates for locally assessed renewable energy facilities for use by county assessors, amend existing property statement forms for renewable energy properties, and develop procedures for assessing CSGs for state assessed utilities in FY 2020-21. These workload increases can be accomplished within existing appropriations.

School finance. Under current law, funding for the School Finance Act comes from a combination of state and local sources. The local share, over 90 percent of which comes from property taxes, is counted first. State aid provides the difference between a district's total funding and the district's local share. When energy storage equipment and CSGs are assessed at a reduced rate, the local share of total program funding for school finance will decrease, likely requiring state aid to increase. The exact amount of this increase will depend on several variables and cannot be estimated. In addition, any state aid increase will be subject to decisions of the General Assembly regarding the level of the budget stabilization factor.

Local Government

By changing the valuation methodology for CSGs from the cost to the income approach, this bill is anticipated to reduce local property tax revenue by $390,000 in tax year 2022 and $450,000 in tax year 2023, but may increase revenue in later years, depending on the number of CSGs and when they become operational. When energy storage equipment is assessed at a reduced rate, this bill will reduce the amount of property taxes collected by local governments by an indeterminate amount.

Workload for county assessors and county treasurers will increase to estimate the reduced property tax revenue from the bill. Workload will vary depending on the number of CSGs in each county.

Effective Date

The bill was signed into law by the Governor on April 22, 2021, and takes effect on September 7, 2021, assuming no referendum petition is filed.

State and Local Government Contacts

Colorado Energy Office	Counties	County Assessors
Fire Chiefs	Municipalities	Property Tax Division
School Districts	Special Districts	