

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Benny Shendo

AN ACT

RELATING TO PROCUREMENT; INCREASING THE PREFERENCE FOR NEW MEXICO RESIDENT BUSINESSES AND CONTRACTORS; ELIMINATING THE TIME LIMITATION FOR SPECIAL PREFERENCES FOR NEW MEXICO RESIDENT VETERAN BUSINESSES AND RESIDENT VETERAN CONTRACTORS; PROVIDING FOR A PREFERENCE FOR NEW MEXICO NATIVE AMERICAN RESIDENT AND RESIDENT VETERAN BUSINESSES AND CONTRACTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 13-1-21 NMSA 1978 (being Laws 1979, Chapter 72, Section 1, as amended) is amended to read:

"13-1-21. APPLICATION OF PREFERENCES.--

A. For the purposes of this section:

(1) "business" means a commercial enterprise carried on for the purpose of selling goods or services, including growing, producing, processing or distributing

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 agricultural products;

2 (2) "formal bid process" means a competitive
3 bid process;

4 (3) "formal request for proposals process"
5 means a competitive proposal process, including a competitive
6 qualifications-based proposal process;

7 (4) "Native American resident business" means
8 a business that has a valid Native American resident business
9 certificate issued by the taxation and revenue department
10 pursuant to Section 13-1-22 NMSA 1978 but does not include a
11 Native American resident veteran business;

12 (5) "Native American resident veteran
13 business" means a business that has a valid Native American
14 resident veteran business certificate issued by the taxation
15 and revenue department pursuant to Section 13-1-22 NMSA 1978;

16 [~~4~~] (6) "public body" means a department,
17 commission, council, board, committee, institution, legislative
18 body, agency, government corporation, educational institution
19 or official of the executive, legislative or judicial branch of
20 the government of the state or a political subdivision of the
21 state and the agencies, instrumentalities and institutions
22 thereof, including two-year post-secondary educational
23 institutions, school districts, local school boards and all
24 municipalities, including home-rule municipalities;

25 [~~5~~] (7) "recycled content goods" means

.221625.2GLG

underscored material = new
[bracketed material] = delete

1 supplies and materials composed twenty-five percent or more of
2 recycled materials; provided that the recycled materials
3 content meets or exceeds the minimum content standards required
4 by bid specifications;

5 [~~(6)~~] (8) "resident business" means a business
6 that has a valid resident business certificate issued by the
7 taxation and revenue department pursuant to Section 13-1-22
8 NMSA 1978 but does not include a resident veteran business; and

9 [~~(7)~~] (9) "resident veteran business" means a
10 business that has a valid resident veteran business certificate
11 issued by the taxation and revenue department pursuant to
12 Section 13-1-22 NMSA 1978.

13 B. Except as provided in Subsection C of this
14 section, when a public body makes a purchase using a formal bid
15 process, the public body shall deem a bid submitted by a:

16 (1) resident business or Native American
17 resident business to be [~~five~~] eight percent lower than the bid
18 actually submitted; or

19 (2) resident veteran business [~~with annual~~
20 ~~gross revenues of up to three million dollars (\$3,000,000) in~~
21 ~~the preceding tax year~~] or Native American resident veteran
22 business to be ten percent lower than the bid actually
23 submitted.

24 C. When a public body makes a purchase using a
25 formal bid process and the bids are received for both recycled

.221625.2GLG

underscored material = new
[bracketed material] = delete

1 content goods and nonrecycled content goods, the public body
2 shall deem:

3 (1) bids submitted for recycled content goods
4 from any business, except a resident veteran business or Native
5 American resident veteran business, to be [~~five~~] eight percent
6 lower than the bids actually submitted; or

7 (2) bids submitted for recycled content goods
8 from a resident veteran business [~~with annual gross revenues of~~
9 ~~up to three million dollars (\$3,000,000) in the preceding tax~~
10 ~~year~~] or Native American resident veteran business to be ten
11 percent lower than the bids actually submitted.

12 D. When a public body makes a purchase using a
13 formal request for proposals process, not including contracts
14 awarded on a point-based system, the public body shall award an
15 additional:

16 (1) [~~five~~] eight percent of the total weight
17 of all the factors used in evaluating the proposals to a
18 resident business or Native American resident business; and

19 (2) ten percent of the total weight of all the
20 factors used in evaluating the proposals to a resident veteran
21 business [~~that has annual gross revenues of up to three million~~
22 ~~dollars (\$3,000,000) in the preceding tax year~~] or Native
23 American resident veteran business.

24 E. When a public body makes a purchase using a
25 formal request for proposals process, and the contract is

.221625.2GLG

underscored material = new
[bracketed material] = delete

1 awarded based on a point-based system, the public body shall
2 award additional points equivalent to:

3 (1) ~~[five]~~ eight percent of the total possible
4 points to a resident business or Native American resident
5 business; or

6 (2) ten percent of the total possible points
7 to a resident veteran business [~~that has annual gross revenues~~
8 ~~of up to three million dollars (\$3,000,000) in the preceding~~
9 ~~tax year~~] or Native American resident veteran business.

10 F. When a joint bid or joint proposal is submitted
11 by a combination of resident veteran, Native American resident
12 veteran, resident, Native American resident or nonresident
13 businesses, the preference provided pursuant to Subsection B,
14 C, D or E of this section shall be calculated in proportion to
15 the percentage of the contract, based on the dollar amount of
16 the goods or services provided under the contract, that will be
17 performed by each business as specified in the joint bid or
18 proposal.

19 G. [~~A resident veteran business shall not benefit~~
20 ~~from the preference pursuant to this section for more than ten~~
21 ~~consecutive years. A person that is an owner of a business~~
22 ~~that is a resident veteran business shall not benefit from the~~
23 ~~preference pursuant to this section for more than ten~~
24 ~~consecutive years]~~ A person shall not benefit from the
25 provisions of this section based on more than one business

.221625.2GLG

underscored material = new
[bracketed material] = delete

1 concurrently.

2 H. A public body shall not award a business both a
3 resident business preference and a resident veteran business
4 preference or a Native American resident business preference
5 and a Native American resident veteran business preference.

6 I. The procedures provided in Sections 13-1-172
7 through 13-1-183 NMSA 1978 or in an applicable purchasing
8 ordinance apply to a protest to a public body concerning the
9 awarding of a contract in violation of this section.

10 J. This section shall not apply when the
11 expenditure includes federal funds for a specific purchase."

12 SECTION 2. Section 13-1-22 NMSA 1978 (being Laws 2012,
13 Chapter 56, Section 4, as amended) is amended to read:

14 "13-1-22. RESIDENT BUSINESS AND RESIDENT CONTRACTOR
15 CERTIFICATION--NATIVE AMERICAN RESIDENT BUSINESS AND NATIVE
16 AMERICAN RESIDENT CONTRACTOR CERTIFICATES--RESIDENT VETERAN
17 BUSINESS AND RESIDENT VETERAN CONTRACTOR CERTIFICATES.--

18 A. To receive a resident business, Native American
19 resident business, resident veteran business or Native American
20 resident veteran business preference pursuant to Section
21 13-1-21 NMSA 1978 or a resident contractor, Native American
22 resident contractor, resident veteran contractor or Native
23 American resident veteran contractor preference pursuant to
24 Section 13-4-2 NMSA 1978, a business or contractor shall submit
25 with its bid or proposal a copy of a valid resident business,

.221625.2GLG

underscoring material = new
[bracketed material] = delete

1 Native American resident business, resident veteran business or
2 Native American resident veteran business certificate or valid
3 resident contractor, Native American resident contractor,
4 resident veteran contractor or Native American resident veteran
5 contractor certificate issued by the taxation and revenue
6 department.

7 B. An application for a resident business
8 certificate shall include an affidavit from a certified public
9 accountant setting forth that the business is licensed to do
10 business in this state and that:

11 (1) the business has paid property taxes or
12 rent on real property in the state and paid at least one other
13 tax administered by the state in each of the three years
14 immediately preceding the submission of the affidavit;

15 (2) if the business is a new business, the
16 owner or majority of owners has paid property taxes or rent on
17 real property in the state and has paid at least one other tax
18 administered by the state in each of the three years
19 immediately preceding the submission of the affidavit and has
20 not applied for a resident business or resident contractor
21 certificate pursuant to this section during that time period;

22 (3) if the business is a relocated business,
23 at least eighty percent of the total personnel of the business
24 in the year immediately preceding the submission of the
25 affidavit were residents of the state and that, prior to the

.221625.2GLG

1 submission of the affidavit, the business either leased real
2 property for ten years or purchased real property greater than
3 one hundred thousand dollars (\$100,000) in value in the state;
4 or

5 (4) if the business is a previously certified
6 business or was eligible for certification, the business has
7 changed its name, has reorganized into one or more different
8 legal entities, was purchased by another legal entity but
9 operates in the state as substantially the same commercial
10 enterprise or has merged with a different legal entity but
11 operates in the state as substantially the same commercial
12 enterprise.

13 C. An application for a resident veteran business
14 certificate shall include the affidavit required by Subsection
15 B of this section, an affidavit from a certified public
16 accountant providing the previous year's annual revenues of the
17 resident veteran business and:

18 (1) verification by the United States
19 department of veterans affairs as being either a veteran-owned
20 small business or a service-disabled veteran-owned small
21 business; or

22 (2) verification of veteran status as
23 indicated by the United States department of defense DD form
24 214 of release or discharge from active duty with an honorable
25 discharge or of service-disabled veteran status by the United

1 States department of veterans affairs and proof that a veteran
2 or veterans own a majority of the business.

3 ~~[G-]~~ D. An application for a resident contractor
4 certificate shall include an affidavit from a certified public
5 accountant setting forth that the contractor is currently
6 licensed as a contractor in this state and that:

7 (1) the contractor has:

8 (a) registered with the state at least
9 one vehicle; and

10 (b) in each of the five years
11 immediately preceding the submission of the affidavit: 1) paid
12 property taxes or rent on real property in the state and paid
13 at least one other tax administered by the state; and 2) paid
14 unemployment insurance on at least three full-time employees
15 who are residents of the state; provided that if a contractor
16 is a legacy contractor, the requirement of at least three full-
17 time employees who are residents of the state is waived;

18 (2) if the contractor is a new contractor, the
19 owner or majority of owners has paid property taxes or rent on
20 real property in the state and has paid at least one other tax
21 administered by the state in each of the five years immediately
22 preceding the submission of the affidavit and has not applied
23 for a resident business or resident contractor certificate
24 pursuant to this section during that time period;

25 (3) if the contractor is a relocated business,

.221625.2GLG

underscored material = new
[bracketed material] = delete

1 at least eighty percent of the total personnel of the business
2 in the year immediately preceding the submission of the
3 affidavit were residents of the state and that, prior to the
4 submission of the affidavit, the contractor either leased real
5 property for ten years or purchased real property greater than
6 one hundred thousand dollars (\$100,000) in value in the state;
7 or

8 (4) if the contractor is a previously
9 certified contractor or was eligible for certification, the
10 contractor has changed its name, has reorganized into one or
11 more different legal entities, was purchased by another legal
12 entity but operates in the state as substantially the same
13 enterprise or has merged with a different legal entity but
14 operates in the state as substantially the same commercial
15 enterprise.

16 E. An application for a resident veteran contractor
17 certificate shall include the affidavit required by Subsection
18 D of this section, an affidavit from a certified public
19 accountant providing the previous year's annual revenues for
20 the resident veteran contractor and:

21 (1) verification by the United States
22 department of veterans affairs as being either a veteran-owned
23 small business or a service-disabled veteran-owned small
24 business; or

25 (2) verification of veteran status as

underscoring material = new
~~[bracketed material] = delete~~

1 indicated by the United States department of defense DD form
2 214 of release or discharge from active duty with an honorable
3 discharge or of service-disabled veteran status by the United
4 States department of veterans affairs and proof that a veteran
5 or veterans own a majority of the business.

6 F. An application for a Native American resident
7 business certificate or a Native American resident contractor
8 certificate shall include an affidavit from a notary public
9 setting forth that the business is:

10 (1) operating on lands owned by an Indian
11 nation, tribe or pueblo located in whole or in part on land
12 within New Mexico; and

13 (2) at least fifty-one percent owned by an
14 Indian nation, tribe or pueblo located in whole or in part on
15 land within New Mexico; provided that:

16 (a) the Indian nation, tribe or pueblo
17 receives at least a majority of the net income from the
18 business; and

19 (b) the management and daily operation
20 of the business are controlled by one or more individuals who
21 are members of a New Mexico Indian nation, tribe or pueblo; or

22 (3) at least fifty-one percent owned by one or
23 more New Mexico residents who are members of a federally
24 recognized Indian nation, tribe or pueblo located in whole or
25 in part on land within New Mexico and that is established for

.221625.2GLG

underscoring material = new
[bracketed material] = delete

1 the purpose of profit; provided that:

2 (a) the Native American owners receive
3 at least a majority of the net income from the business; and

4 (b) the management and daily operation
5 of the business are controlled by one or more individuals who
6 are members of a New Mexico Indian nation, tribe or pueblo.

7 G. An application for a Native American resident
8 veteran business certificate or a Native American resident
9 veteran contractor certificate shall include the affidavit
10 required by Subsection F of this section, an affidavit from a
11 certified public accountant providing the previous year's
12 annual revenues for the Native American resident veteran
13 business or Native American resident veteran contractor and, if
14 the business is not owned by an Indian nation, tribe or pueblo:

15 (1) verification by the United States
16 department of veterans affairs that the business is either a
17 veteran-owned small business or a service-disabled veteran-
18 owned small business;

19 (2) verification of veteran status of a
20 majority of the owners of the business as indicated by the
21 United States department of defense DD form 214 of release or
22 discharge from active duty with an honorable discharge or of
23 service-disabled veteran status by the United States department
24 of veterans affairs; or

25 (3) verification of veteran status of the

.221625.2GLG

underscoring material = new
~~[bracketed material]~~ = delete

1 contractor as indicated by the United States department of
2 defense DD form 214 of release or discharge from active duty
3 with an honorable discharge or of service-disabled veteran
4 status by the United States department of veterans affairs.

5 ~~[D.]~~ H. The taxation and revenue department shall
6 prescribe the form and content of the application and required
7 affidavit. The taxation and revenue department shall examine
8 the application and affidavit and, if necessary, may seek
9 additional information to ensure that the business or
10 contractor is eligible to receive the certificate pursuant to
11 the provisions of this section. If the taxation and revenue
12 department determines that an applicant is eligible, the
13 department shall issue a certificate pursuant to the provisions
14 of this section. If the taxation and revenue department
15 determines that the applicant is not eligible, the department
16 shall issue notification within thirty days. If no
17 notification is provided by the department, the certificate is
18 deemed approved. A certificate is valid for three years from
19 the date of its issuance; provided that if there is a change of
20 ownership of more than fifty percent, a resident business or
21 resident contractor shall reapply for a certificate.

22 ~~[E.]~~ I. A business or contractor whose application
23 for a certificate is denied has fifteen days from the date of
24 the taxation and revenue department's decision to file an
25 objection with the taxation and revenue department. The person

.221625.2GLG

underscored material = new
[bracketed material] = delete

1 filing the objection shall submit evidence to support the
2 objection. The taxation and revenue department shall review
3 the evidence and issue a decision within fifteen days of the
4 filing of the objection.

5 ~~[F.]~~ J. If, following a hearing and an opportunity
6 to be heard, the administrative hearings office finds that a
7 business or contractor provided false information to the
8 taxation and revenue department in order to obtain a
9 certificate or that a business or contractor used a certificate
10 to obtain a resident business or resident contractor preference
11 for a bid or proposal and the resident business or contractor
12 did not perform the percentage of the contract specified in the
13 bid or proposal, the business or contractor:

14 (1) is not eligible to receive a certificate
15 or a preference pursuant to Section 13-1-21 or 13-4-2 NMSA 1978
16 for a period of five years from the date on which the taxation
17 and revenue department became aware of the submission of the
18 false information or the failure to perform the contract as
19 specified in the bid or proposal; and

20 (2) is subject to an administrative penalty of
21 up to fifty thousand dollars (\$50,000) for each violation.

22 ~~[G.]~~ K. In a decision issued pursuant to Subsection
23 ~~[E or F]~~ I or J of this section, the taxation and revenue
24 department or the administrative hearings office shall state
25 the reasons for the action taken and inform an aggrieved

.221625.2GLG

underscoring material = new
~~[bracketed material] = delete~~

1 business or contractor of the right to judicial review of the
2 determination pursuant to the provisions of Section 39-3-1.1
3 NMSA 1978.

4 ~~[H.]~~ L. The taxation and revenue department may
5 assess a reasonable fee for the issuance of a certificate not
6 to exceed the actual cost of administering the taxation and
7 revenue department's duties pursuant to this section.

8 ~~[I.]~~ M. The state auditor may audit or review the
9 issuance or validity of certificates.

10 ~~[J.]~~ N. For purposes of this section:

11 (1) "new business" means a person that did not
12 exist as a business in any form and that has been in existence
13 for less than three years;

14 (2) "new contractor" means a person that did
15 not exist as a business in any form and that has been in
16 existence for less than five years;

17 (3) "legacy contractor" means a construction
18 business that has been licensed in this state for ten
19 consecutive years; and

20 (4) "relocated business" means a business that
21 moved eighty percent of its total domestic personnel from
22 another state to New Mexico in the past five years."

23 SECTION 3. Section 13-4-2 NMSA 1978 (being Laws 1984,
24 Chapter 66, Section 2, as amended) is amended to read:

25 "13-4-2. APPLICATION OF PREFERENCE.--

.221625.2GLG

underscored material = new
[bracketed material] = delete

1 A. For the purposes of this section:

2 (1) "formal bid process" means a competitive
3 sealed bid process;

4 (2) "formal request for proposals process"
5 means a competitive sealed proposal process, including a
6 competitive sealed qualifications-based proposal process;

7 (3) "Native American resident contractor"
8 means a person that has a valid Native American resident
9 contractor certificate issued by the taxation and revenue
10 department pursuant to Section 13-1-22 NMSA 1978 but does not
11 include a Native American resident veteran contractor;

12 (4) "Native American resident veteran
13 contractor" means a person that has a valid Native American
14 resident veteran contractor certificate issued by the taxation
15 and revenue department pursuant to Section 13-1-22 NMSA 1978;

16 ~~(3)~~ (5) "public body" means a department,
17 commission, council, board, committee, institution, legislative
18 body, agency, government corporation, educational institution
19 or official of the executive, legislative or judicial branch of
20 the government of the state or a political subdivision of the
21 state and the agencies, instrumentalities and institutions
22 thereof, including two-year post-secondary educational
23 institutions, school districts, local school boards and all
24 municipalities, including home-rule municipalities;

25 ~~(4)~~ (6) "public works contract" means a

underscored material = new
[bracketed material] = delete

1 contract for construction, construction management,
2 architectural, landscape architectural, engineering, surveying
3 or interior design services;

4 [~~(5)~~] (7) "resident contractor" means a person
5 that has a valid resident contractor certificate issued by the
6 taxation and revenue department pursuant to Section 13-1-22
7 NMSA 1978 but does not include a resident veteran contractor;
8 and

9 [~~(6)~~] (8) "resident veteran contractor" means
10 a person that has a valid resident veteran contractor
11 certificate issued by the taxation and revenue department
12 pursuant to Section 13-1-22 NMSA 1978.

13 B. For the purpose of awarding a public works
14 contract using a formal bid process, a public body shall deem a
15 bid submitted by a:

16 (1) resident contractor or Native American
17 resident contractor to be [~~five~~] eight percent lower than the
18 bid actually submitted; or

19 (2) resident veteran contractor [~~with annual~~
20 ~~gross revenues of up to three million dollars (\$3,000,000) in~~
21 ~~the preceding tax year~~] or Native American resident veteran
22 contractor to be ten percent lower than the bid actually
23 submitted.

24 C. When a public body awards a contract using a
25 formal request for proposals process, not including contracts

.221625.2GLG

underscoring material = new
[bracketed material] = delete

1 awarded on a point-based system, the public body shall award an
2 additional:

3 (1) [~~five~~] eight percent of the total weight
4 of all the factors used in evaluating the proposals to a
5 resident contractor or Native American resident contractor; or

6 (2) ten percent of the total weight of all the
7 factors used in evaluating the proposals to a resident veteran
8 contractor [~~that has annual gross revenues of up to three~~
9 ~~million dollars (\$3,000,000) in the preceding tax year]~~ or
10 Native American resident veteran contractor.

11 D. When a public body makes a purchase using a
12 formal request for proposals process, and the contract is
13 awarded based on a point-based system, the public body shall
14 award an additional of the equivalent of:

15 (1) [~~five~~] eight percent of the total possible
16 points to a resident contractor or Native American resident
17 contractor; or

18 (2) ten percent of the total possible points
19 to a resident veteran contractor [~~that has annual gross~~
20 ~~revenues of up to three million dollars (\$3,000,000) in the~~
21 ~~preceding tax year]~~ or Native American resident veteran
22 contractor.

23 E. When a joint bid or joint proposal is submitted
24 by a combination of resident veteran, Native American resident
25 veteran, resident, Native American resident or nonresident

.221625.2GLG

underscored material = new
[bracketed material] = delete

1 contractors, the preference provided pursuant to Subsection B,
2 C or D of this section shall be calculated in proportion to the
3 percentage of the contract, based on the dollar amount of the
4 goods or services provided under the contract, that will be
5 performed by each contractor as specified in the joint bid or
6 joint proposal.

7 F. ~~[A resident veteran contractor shall not benefit~~
8 ~~from the preference pursuant to this section for more than ten~~
9 ~~consecutive years. A person that is an owner of a business~~
10 ~~that is a resident veteran contractor shall not benefit from~~
11 ~~the preference pursuant to this section for more than ten~~
12 ~~consecutive years]~~ A person shall not benefit from the
13 provisions of this section based on more than one business
14 concurrently.

15 G. A public body shall not award a contractor both
16 a resident contractor preference and a resident veteran
17 contractor preference or a Native American resident contractor
18 preference and a Native American resident veteran contractor
19 preference.

20 H. The procedures provided in Sections 13-1-172
21 through 13-1-183 NMSA 1978 or in an applicable purchasing
22 ordinance apply to a protest to a public body concerning the
23 awarding of a contract in violation of this section."

24 SECTION 4. Section 62-16B-7 NMSA 1978 (being Laws 2021,
25 Chapter 34, Section 7) is amended to read:

.221625.2GLG

underscored material = new
~~[bracketed material] = delete~~

1 "62-16B-7. PUBLIC REGULATION COMMISSION--ENFORCEMENT AND
2 RULEMAKING.--

3 A. The commission shall administer and enforce the
4 rules and provisions of the Community Solar Act, including
5 regulation of subscriber organizations in accordance with the
6 Community Solar Act and oversight and review of the consumer
7 protections established for the community solar program.

8 B. The commission shall adopt rules to establish a
9 community solar program by no later than April 1, 2022. The
10 rules shall:

11 (1) provide an initial statewide capacity
12 program cap of two hundred megawatts alternating current
13 proportionally allocated to investor-owned utilities until
14 November 1, 2024. The statewide capacity program cap shall
15 exclude native community solar projects and rural electric
16 distribution cooperatives;

17 (2) establish an annual statewide capacity
18 program cap to be in effect after November 1, 2024;

19 (3) require thirty percent of electricity
20 produced from each community solar facility to be reserved for
21 low-income customers and low-income service organizations. The
22 commission shall issue guidelines to ensure the carve-out is
23 achieved each year and develop a list of low-income service
24 organizations and programs that may pre-qualify low-income
25 customers;

.221625.2GLG

underscoring material = new
[bracketed material] = delete

1 (4) establish a process for the selection of
2 community solar facility projects and allocation of the
3 statewide capacity program cap, consistent with Section 13-1-21
4 NMSA 1978 regarding resident business, Native American resident
5 business, [~~and~~] resident veteran business and Native American
6 resident veteran business preferences;

7 (5) require a qualifying utility to file the
8 tariffs, agreement or forms necessary for implementation of the
9 community solar program;

10 (6) establish reasonable, uniform, efficient
11 and non-discriminatory standards, fees and processes for the
12 interconnection of community solar facilities that are
13 consistent with the commission's existing interconnection rules
14 and interconnection manual that allows a qualifying utility to
15 recover reasonable costs for administering the community solar
16 program and interconnection costs for each community solar
17 facility, such that a qualifying utility and its non-
18 subscribing customers do not subsidize the costs attributable
19 to the subscriber organization pursuant to this paragraph;

20 (7) provide consumer protections for
21 subscribers, including a uniform disclosure form that
22 identifies the information that shall be provided by a
23 subscriber organization to a potential subscriber, in both
24 English and Spanish, and when appropriate, native or indigenous
25 languages, to ensure fair disclosure of future costs and

.221625.2GLG

underscoring material = new
~~[bracketed material] = delete~~

1 benefits of subscriptions, key contract terms, security
2 interests and other relevant but reasonable information
3 pertaining to the subscription, as well as grievance and
4 enforcement procedures;

5 (8) provide a community solar bill credit rate
6 mechanism for subscribers derived from the qualifying utility's
7 total aggregate retail rate on a per-customer-class basis, less
8 the commission-approved distribution cost components, and
9 identify all proposed rules, fees and charges; provided that
10 non-subscribers shall not subsidize costs attributable to
11 subscribers; and provided further that if the commission
12 determines that it is in the public interest for non-
13 subscribers to subsidize subscribers, non-subscribers shall not
14 be charged more than three percent of the non-subscribers'
15 aggregate retail rate on an annual basis to subsidize
16 subscribers;

17 (9) reasonably allow for the creation,
18 financing and accessibility of community solar facilities; and

19 (10) provide requirements for the siting and
20 co-location of community solar facilities with other energy
21 resources; provided that community solar facilities shall not
22 be co-located with other community solar facilities.

23 C. The commission may through rule establish a
24 reasonable application fee for subscriber organizations that is
25 designed to cover a portion of the administrative costs of the

.221625.2GLG

underscored material = new
~~[bracketed material] = delete~~

1 commission in carrying out the community solar program.
2 Application fees collected by the commission shall be remitted
3 to the state treasurer no later than the day after their
4 receipt.

5 D. The commission shall solicit input from relevant
6 state agencies, public utilities, low-income stakeholders,
7 disproportionately impacted communities, potential owners or
8 operators of community solar facilities, Indian nations, tribes
9 and pueblos and other interested parties in its rulemaking
10 process.

11 E. By no later than November 1, 2024, the
12 commission shall provide to the appropriate interim legislative
13 committee a report on the status of the community solar
14 program, including the development of community solar
15 facilities, the participation of investor-owned utilities and
16 rural electric distribution cooperatives, low-income
17 participation, the adequacy of facility size, proposals for
18 alternative rate structures and bill credit mechanisms, cross-
19 subsidization issues, local developer project selection and
20 expansion of the local solar industry, community solar
21 facilities' effect on utility compliance with the renewable
22 portfolio standard and an evaluation of the effectiveness of
23 the commission's rules to implement the Community Solar Act and
24 any recommended changes."

25 SECTION 5. EFFECTIVE DATE.--The effective date of the
.221625.2GLG

underscoring material = new
~~[bracketed material] = delete~~

1 provisions of this act is July 1, 2022.

2 - 24 -

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25