A BILL FOR AN ACT

CONCERNING THE COLORADO OIL AND GAS COMMISSION, AND, IN
CONNECTION THEREWITH, DIRECTING THE COMMISSION TO
FOSTER OIL AND GAS DEVELOPMENT CONSISTENT WITH THE
PROTECTION OF THE ENVIRONMENT, WILDLIFE RESOURCES, AND
PUBLIC HEALTH, SAFETY, AND WELFARE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

 Declares it to be public policy that oil and gas development occur consistent with the protection of the environment, wildlife resources, and public health, safety, and welfare. To achieve such public policy,
redefines "waste" to exclude actions taken to protect the environment, wildlife resources, and public health, safety, and welfare. Specifies that nothing in the act establishes, alters, impairs, or negates the authority of local governments to regulate land use related to oil and gas operations.

Modifies membership requirements for the Colorado oil and gas commission by:

- Adding the executive directors of the departments of public health and environment and natural resources as ex officio members; and
- Specifying geographic and experiential prerequisites for the remaining members.

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

SECTION 1. Legislative declaration. The general assembly hereby declares that nothing in this act shall establish, alter, impair, or negate the authority of local governments to regulate land use related to oil and gas operations.

SECTION 2. 34-60-102 (1), Colorado Revised Statutes, is amended to read:

34-60-102. Legislative declaration. (1) It is declared to be in the public interest to foster encourage, and promote the RESPONSIBLE, BALANCED development, production, and utilization of the natural resources of oil and gas in the state of Colorado in a manner consistent with protection of public health, safety, and welfare, INCLUDING PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES; to protect the public and private interests against the evils of waste in the production and utilization of oil and gas; by prohibiting waste; AND to safeguard, protect, and enforce the coequal and correlative rights of owners and producers in a common source or pool of oil and gas to the end that each such owner and producer in a common pool or source of supply of oil and gas may obtain a just and equitable share of production therefrom. It is
not the intent nor the purpose of this article to require or permit the
proration or distribution of the production of oil and gas among the fields
and pools of Colorado on the basis of market demand. It is the intent and
purpose of this article to permit each oil and gas pool in Colorado to
produce up to its maximum efficient rate of production, subject to the
prohibition of waste, consistent with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources, and subject further to the enforcement and protection of the coequal and correlative rights of the owners and producers of a common source of oil and gas, so that each common owner and producer may obtain a just and equitable share of production therefrom.

SECTION 3. 34-60-103 (13), Colorado Revised Statutes, is amended to read:

34-60-103. Definitions. As used in this article, unless the context otherwise requires:

(a) "Waste", in addition to the meanings as set forth in subsections (11) and (12) of this section, means:

(I) Physical waste, as that term is generally understood in the oil and gas industry;

(II) The locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; AND

(III) Abuse of the correlative rights of any owner in a pool due
to nonuniform, disproportionate, unratable, or excessive withdrawals of oil or gas therefrom, causing reasonably avoidable drainage between tracts of land or resulting in one or more producers or owners in such pool producing more than his OR HER equitable share of the oil or gas from such pool.

(b) NOTWITHSTANDING THE MEANINGS SET FORTH IN SUBSECTIONS (11) AND (12) OF THIS SECTION AND PARAGRAPH (a) OF THIS SUBSECTION (13), "WASTE" DOES NOT INCLUDE ANY ACTION TAKEN BY THE COMMISSION OR ANY ACTION TAKEN BY AN OPERATOR TO FULFILL THE PROVISIONS OF THIS ARTICLE TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES.

SECTION 4. 34-60-104 (2) (a), Colorado Revised Statutes, is amended to read:

34-60-104. Oil and gas conservation commission - report - publication - repeal. (2) (a) (I) Effective July 1, 1994 JULY 1, 2007, the commission shall consist of NINE MEMBERS, seven members OF WHOM SHALL BE appointed by the governor with the consent of the senate, AND TWO OF WHOM, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, OR THEIR DESIGNEES, SHALL BE EX OFFICIO VOTING MEMBERS. AT LEAST two members shall be appointed from west of the continental divide, and, to the extent possible, consistent with this paragraph (a), the other members shall be appointed taking into account the need for geographical representation of other areas of the state with high levels of oil and gas activity or employment. Two members shall not be employed by the oil and gas industry and shall be
individuals with formal training or substantial experience in agriculture, land reclamation, environmental protection, or soil conservation. Five members shall be individuals with substantial experience in the oil and gas industry, and at least two of said five members shall have a college degree in petroleum geology or petroleum engineering; ONE MEMBER SHALL BE A LOCAL GOVERNMENT OFFICIAL; ONE MEMBER SHALL HAVE A BACKGROUND AND EXPERTISE IN ENVIRONMENTAL OR WILDLIFE PROTECTION; ONE MEMBER SHALL HAVE A BACKGROUND AND EXPERTISE IN SOIL CONSERVATION OR RECLAMATION; AND ONE MEMBER SHALL BE ACTIVELY ENGAGED IN AGRICULTURAL PRODUCTION AND ALSO BE A ROYALTY OWNER. EXCLUDING THE EXECUTIVE DIRECTORS FROM CONSIDERATION, no more than four members of the commission shall be members of the same political party.

(II) SUBJECT TO PARAGRAPh (b) OF THIS SUBSECTION (2), NOTHING IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO REQUIRE A HOLDOVER MEMBER OF THE COMMISSION HOLDING OFFICE ON JULY 1, 2007, TO COMPLY WITH THE PROVISIONS OF THIS PARAGRAPH (a), AS AMENDED, UNLESS SUCH PERSON IS REAPPOINTED TO THE COMMISSION FOR ANOTHER TERM OF OFFICE. NOTHING IN THIS SUBPARAGRAPH (II) SHALL ALTER, IMPAIR, OR NEGATE THE AUTHORITY OF THE GOVERNOR TO REMOVE OR APPOINT MEMBERS OF THE COMMISSION PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2).

ADDRESS THE COMPLAINTS.

(B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 2010.

SECTION 5. 34-60-106 (11), Colorado Revised Statutes, is amended to read:

34-60-106. Additional powers of the commission. (11) ON OR BEFORE JULY 1, 2008, the commission shall, promulgate IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, REVIEW ITS rules and regulations RELATED to protect THE PROTECTION of the health, safety, and welfare of the general public in the conduct of oil and gas operations.

SECTION 6. 34-60-119, Colorado Revised Statutes, is amended to read:

34-60-119. Production - limitation. This article shall never be construed to require, permit, or authorize the commission or any court to make, enter, or enforce any order, rule, regulation, or judgment requiring restriction of production of any pool or of any well, except a well or wells drilled in violation of section 34-60-116, to an amount less than the well or pool can produce without waste WHERE NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.