

**NO FISCAL IMPACT****Drafting Number:** LLS 09-0044**Date:** January 26, 2009**Prime Sponsor(s):** Sen. Brophy  
Rep. Bradford**Bill Status:** Senate SVMA**Fiscal Analyst:** Marc Carey (303-866-4102)

**TITLE:** CONCERNING A MORATORIUM ON THE IMPLEMENTATION OF RULES PROMULGATED BY THE COLORADO OIL AND GAS CONSERVATION COMMISSION PURSUANT TO BILLS ENACTED AFTER MAY 28, 2007.

**Summary of Legislation**

This bill specifies that rules promulgated by the Colorado Oil and Gas Conservation Commission (COGCC) concerning permit review, the protection of public health, safety, and welfare, and the protection of wildlife resources, shall not take effect prior to July 1, 2010. The bill will become effective upon signature of the Governor.

**Assessment**

Postponing the effective date of the recently adopted COGCC rules would postpone the change in roles that the COGCC and the Division of Wildlife (DOW) would play in evaluating permit applications. These rules were promulgated based on the requirements set forth in HB07-1341 and HB07-1298. There has been considerable controversy over the fiscal note for HB07-1341 and the funding and FTE authorized for the COGCC in HB08-1375, the annual Long Bill. The Department of Natural Resources has stated that additional resources were needed by the COGCC due to the sharp increase and continued high level of activity in the oil and gas industry, independent of the promulgation of new rules as required in HB07-1341. That said, suspension of the new rules until FY 2010-11 is not expected to change the need for resources, and the bill is assessed at no fiscal impact and assumes no change in funding. The Background section below provides a brief summary of recent legislative actions concerning the COGCC.

**Background**

During the 2007 legislative session, the General Assembly enacted two bills that pertained to rule making by the COGCC:

- **HB 07-1341** — required the COGCC, in consultation with the Department of Public Health and Environment (DPHE), to promulgate rules that protect the health, safety, and welfare of the general public in the conduct of oil and gas operations. The rules were required to establish a timely and efficient procedure for the review of applications of drilling permits, and provide the DPHE with an opportunity to provide input. While the fiscal note for this bill indicated a need for and appropriation of \$4,350 to the COGCC and \$56,580 and 0.8 FTE to the DPHE, the final bill only included an appropriation of \$100,000 and 1.0 FTE to the DPHE.

- **HB 07-1298** — required the COGCC to consult with the Colorado Wildlife Commission and the DOW in establishing rules for oil and gas operations that would minimize adverse impacts on wildlife resources and habitat. The bill included an appropriation of \$5,050 to the Department of Natural Resources for the COGCC.

***FY 2008-09 Funding.*** HB08-1375, the annual Long Bill, included an additional \$1.7 million plus 21.0 FTE for the COGCC for the current fiscal year. For purposes of this fiscal note, staff reviewed the FY 2008-09 JBC figure setting documents for the Department of Natural Resources. This increase in funding and FTE was attributed to a marked increase in drilling permit applications and active wells. For example, it was determined that 16.0 FTE were needed to return service to FY 2004-05 levels, as measured by permits per variable staff.

***FY 2009-10 Funding Requests.*** The Department of Natural Resources is requesting new funding of \$225,242 and 4.0 FTE for information management support to the COGCC for the next fiscal year due to the continued high level of industry activity.

The department's worksheet for this fiscal note indicates that once the rules are implemented, the DOW will need to hire at least 4.0 FTE Land Use Specialists to review and comment on drilling permit applications. The DOW **did not include** a request for funding these in its FY 2009-10 budget request, as it believes it has sufficient budgetary flexibility within current funding to accommodate this need through vacancies created by pending retirements.

The rule making for both sets of regulations were required to be coordinated, and the COGCC adopted the final draft rules on December 11, 2008. The rules will be reviewed by the General Assembly during the 2009 legislative session. Unless otherwise specified, these rules are effective on April 1, 2009, for operations on private land, and May 1, 2009, for operations on federal land.

### **Departments Contacted**

Natural Resources  
Joint Budget Committee

Public Health and Environment