



Colorado
Legislative
Council
Staff

Room 029 State Capitol, Denver, CO 80203-1784
(303) 866-3521 FAX: 866-3855 TDD: 866-3472

MEMORANDUM

May 2, 2012

TO: Senator Morgan Carroll
FROM: Clare Pramuk, Senior Fiscal Analyst (303-866-2677)
SUBJECT: Fiscal Assessment of Proposed Amendment **SB107_L.002**.

This memorandum is an assessment of the fiscal impact of the attached proposed amendment to **Senate Bill 12-107**. This fiscal assessment is for the impact of the bill with inclusion of this amendment **only**. Any other added amendment could influence the fiscal impact.

Summary of Proposed Amendment

Amendment L.002 requires the Oil and Gas Conservation Commission (OGCC) to adopt rules that require oil and gas operators to use practices that are designed to prevent or reduce adverse impacts to the public and environment when using hydraulic fracturing. The rules must require collection of water samples from all active water wells located within one-half mile of an oil and gas well that will be hydraulically fractured. Water samples must also be collected at least once after the completion of hydraulic fracturing. Operators are to submit the samples in a water quality report to the OGCC for posting on the OGCC web site. The amendment requires that operators provide financial assurances sufficient to cover remediation of all foreseeable damages. The amendment specifies that rulemaking be completed within existing resources and that no new personnel or consultants are required.

Fiscal Impact of Amendment

Amendment L.002 increases expenditures by \$15,722 but reduces FTE by 0.9 in FY 2012-13 and reduces expenditures by \$83,889 and 1.0 FTE in FY 2013-14 from the Oil and Gas Conservation and Environmental Response Fund.

Bill's Revised Fiscal Impact with Amendment

With Amendment L.002, the fiscal impact of SB12-107 is \$338,178 and 3.0 FTE in FY 2012-13 and \$509,366 and 6.7 FTE in FY 2013-14 from the Oil and Gas Conservation and Environmental Response Fund. The amendment specifies that the OGCC is required to implement

the provisions of the bill within existing appropriations. Notwithstanding this clause, legislative rules require that fiscal notes staff analyze the workload and cost impacts that are expected to result from the bill. To the extent that workload increases as estimated in the fiscal note and funding is not provided in the bill, the OGCC may be required to seek additional funding through the annual budget process, or suspend or delay other functions.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures		
Cash Funds		
Oil and Gas Conservation and Environmental Response Fund	\$338,178	\$509,366
FTE Position Change	3.0 FTE	6.7FTE

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB12-107 be amended as follows:

1 Amend printed bill, page 4, strike lines 4 through 27.

2 Strike pages 5 through 7.

3 Page 8, strike lines 1 through 16 and substitute:

4 **"34-60-130. Hydraulic fracturing - rules.** (1) THIS SECTION
5 SHALL BE KNOWN AND MAY BE CITED AS THE "FRACKING SAFETY AND
6 WATER PROTECTION ACT".

7 (2) THE COMMISSION SHALL, WITHIN EXISTING RESOURCES, ADOPT
8 RULES PURSUANT TO THIS SUBSECTION (2). THE RULES MUST CONTAIN
9 DEADLINES, INCLUDING APPROPRIATE MILESTONES, FOR OPERATORS TO
10 COMPLY WITH ANY ASPECT OF THE RULES THAT CANNOT REASONABLY BE
11 COMPLIED WITH IMMEDIATELY. THE RULES MUST REQUIRE OPERATORS TO
12 USE PRACTICES THAT ARE DESIGNED TO PREVENT OR REDUCE IMPACTS
13 CAUSED BY OIL AND GAS OPERATIONS TO AIR, WATER, SOIL, OR
14 BIOLOGICAL RESOURCES, AND TO MINIMIZE ADVERSE IMPACTS TO PUBLIC
15 HEALTH, SAFETY AND WELFARE, INCLUDING THE ENVIRONMENT AND
16 WILDLIFE RESOURCES, REGARDING:

17 (a) HYDRAULIC FRACTURING NEAR:

18 (I) RADIOACTIVE MATERIAL, AS DEFINED SECTION 25-11-101 (6),
19 C.R.S.;

20 (II) EXPLOSIVES, INCLUDING MUNITIONS; AND

21 (III) SITES LISTED ON THE NATIONAL PRIORITY LIST PURSUANT TO
22 THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE,
23 COMPENSATION, AND LIABILITY ACT OF 1980", 42 U.S.C. SEC. 9601 ET
24 SEQ., AS AMENDED;

25 (b) THE SHUT-DOWN OF HYDRAULIC FRACTURING OPERATIONS
26 WHEN PRESSURE READINGS INDICATE THAT THE HYDRAULIC FRACTURING
27 FLUID HAS ENTERED A NONTARGETED AREA OF THE GEOLOGIC FORMATION;

28 (c) INCREASED SET BACKS COMPARED WITH THOSE IN THE
29 COMMISSION'S RULES ON THE EFFECTIVE DATE OF THIS SECTION;

30 (d) THE USE OF OPEN PITS TO STORE OR DISPOSE OF DRILLING
31 MUDS, HYDRAULIC FRACTURING FLUIDS, OR FLOW-BACK IN AREAS WHERE
32 THERE IS RISK TO OCCUPIED STRUCTURES, SURFACE WATER, OR TRIBUTARY
33 GROUNDWATER FROM SUCH USE, STORAGE, OR DISPOSAL;

34 (e) THE USE OF CLOSED-LOOP SYSTEMS FOR HYDRAULIC
35 FRACTURING TREATMENTS;

1 (f) AFTER CONSULTATION WITH THE AIR QUALITY CONTROL
2 COMMISSION CREATED IN SECTION 25-7-104 (1), C.R.S., THE
3 MINIMIZATION OF AIR EMISSIONS FROM OIL AND GAS OPERATIONS;

4 (g) (I) THE COLLECTION OF WATER QUALITY SAMPLES RELATED TO
5 POTENTIAL IMPACTS FROM HYDRAULIC FRACTURING, AS DETERMINED BY
6 THE COMMISSION, FROM ALL ACTIVE WATER WELLS LOCATED WITHIN
7 ONE-HALF MILE OF AN OIL AND GAS WELL THAT WILL BE HYDRAULICALLY
8 FRACTURED. THE OPERATOR SHALL ALSO COLLECT WATER QUALITY
9 SAMPLES RELATED TO POTENTIAL IMPACTS FROM HYDRAULIC FRACTURING
10 AT LEAST ONCE AFTER THE COMPLETION OF THE HYDRAULIC FRACTURING,
11 PURSUANT TO A SCHEDULE ESTABLISHED BY THE COMMISSION, FROM ALL
12 WATER WELLS LOCATED WITHIN ONE-HALF MILE OF THE OIL AND GAS
13 WELL. THE OPERATOR SHALL SUBMIT THE SAMPLES IN A WATER QUALITY
14 REPORT TO THE COMMISSION, IN A FORMAT AND BY A DEADLINE
15 ESTABLISHED BY THE COMMISSION.

16 (II) THE COMMISSION SHALL PROMPTLY POST THE WATER QUALITY
17 REPORTS ON ITS WEB SITE. THE REPORTS MUST BE SEARCHABLE BY
18 OPERATOR, WELL LOCATION, AND OTHER FACTORS ESTABLISHED BY THE
19 COMMISSION.

20 (III) THE RULES MUST INCLUDE TARGETED GOALS FOR THE
21 REDUCTION OF THE TOXICITY OF HYDRAULIC FRACTURING FLUIDS; EXCEPT
22 THAT NOTHING IN THIS PARAGRAPH (g) PROHIBITS THE USE OR
23 REINJECTION OF FLOW-BACK FLUID.

24 (h) THE FINANCIAL ASSURANCES OF SECTION 34-60-106 (3.5) AND
25 (13) MUST BE SUFFICIENT TO COVER REMEDIATION OF ALL FORESEEABLE
26 DAMAGES TO PEOPLE, PROPERTY, SOIL, FOOD, AND WATER IN THE EVENT
27 OF A SPILL, ACCIDENT, OR CONTAMINATION CAUSED DIRECTLY FROM
28 CHEMICALS, LEAK OF METHANE, OIL, OR OTHER RELEASE OF OTHER
29 UNDERGROUND CONTAMINANTS DISLODGED BY THE DRILLING PROCESS.

30 (3) (a) NOTHING IN THIS SECTION REQUIRES THE COMMISSION TO
31 HIRE ANY NEW PERSONNEL OR CONTRACT WITH ADDITIONAL
32 CONSULTANTS.

33 (b) ALL COSTS OF IMPLEMENTATION OF THIS SECTION MUST BE
34 PAID BY PERMIT FEES ESTABLISHED AND COLLECTED PURSUANT TO
35 SECTION 34-60-106 (16)."

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