

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

May 2, 2012
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB12-107 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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,

1 COMPENSATION, AND LIABILITY ACT OF 1980", 42 U.S.C. SEC. 9601 ET
2 SEQ., AS AMENDED;

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

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

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

12 (e) THE USE OF CLOSED-LOOP SYSTEMS FOR HYDRAULIC
13 FRACTURING TREATMENTS;

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

17 (g) (I) THE COLLECTION OF WATER QUALITY SAMPLES RELATED TO
18 POTENTIAL IMPACTS FROM HYDRAULIC FRACTURING, AS DETERMINED BY
19 THE COMMISSION, FROM ALL ACTIVE WATER WELLS LOCATED WITHIN
20 ONE-HALF MILE OF AN OIL AND GAS WELL THAT WILL BE HYDRAULICALLY
21 FRACTURED. THE OPERATOR SHALL ALSO COLLECT WATER QUALITY
22 SAMPLES RELATED TO POTENTIAL IMPACTS FROM HYDRAULIC FRACTURING
23 AT LEAST ONCE AFTER THE COMPLETION OF THE HYDRAULIC FRACTURING,
24 PURSUANT TO A SCHEDULE ESTABLISHED BY THE COMMISSION, FROM ALL
25 WATER WELLS LOCATED WITHIN ONE-HALF MILE OF THE OIL AND GAS
26 WELL. THE OPERATOR SHALL SUBMIT THE SAMPLES IN A WATER QUALITY
27 REPORT TO THE COMMISSION, IN A FORMAT AND BY A DEADLINE
28 ESTABLISHED BY THE COMMISSION.

29 (II) THE COMMISSION SHALL PROMPTLY POST THE WATER QUALITY
30 REPORTS ON ITS WEB SITE. THE REPORTS MUST BE SEARCHABLE BY
31 OPERATOR, WELL LOCATION, AND OTHER FACTORS ESTABLISHED BY THE
32 COMMISSION.

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

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

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

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

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