

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0355.02 Thomas Morris x4218

HOUSE BILL 13-1275

HOUSE SPONSORSHIP

Ginal, Fischer, Foote, Hullinghorst, Schafer, Singer

SENATE SPONSORSHIP

Aguilar,

House Committees

Health, Insurance & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE COLLECTION OF HUMAN HEALTH DATA REGARDING**
102 **OIL AND GAS OPERATIONS IN COUNTIES NEAR THE FRONT**
103 **RANGE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill directs the state board of health in the department of public health and environment to issue a request for proposals to conduct a review of existing epidemiological data regarding the effects of oil and gas operations on human health in the counties of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Larimer, Weld, Boulder, and Arapahoe and one or more control areas. The selected contractor must provide its analysis of the data in a report to the general assembly by March 15, 2014. The contractor must file interim reports with an oversight committee appointed by legislative leadership and the governor. The report must include the committee's recommendation regarding whether a follow-up study to collect and analyze new epidemiological data is warranted. **Section 2** authorizes the use of the mill levy on oil and gas production to pay for the review.

The final report or an interim report may include a finding regarding whether the division of administration in the department or the Colorado oil and gas conservation commission should enter a cease-and-desist order against continued oil and gas operations, emission of air pollutants, or the discharge of water pollutants from any specifically identified oil and gas facilities. **Section 3** directs the division to enter a cease-and-desist order against the continued emission of air pollutants from those facilities if the report finds that it should and the division agrees that it should, **section 4** requires the same for the discharge of water pollutants, and **section 5** requires the same of the commission.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-1-122.3 as
3 follows:

4 **25-1-122.3. Review of oil and gas operations - report -**
5 **definition - repeal.** (1) AS USED IN THIS SECTION, "OIL AND GAS
6 OPERATIONS" HAS THE MEANING ESTABLISHED IN SECTION 34-60-103
7 (6.5), C.R.S.

8 (2) (a) THE BOARD SHALL EXPEDITIOUSLY ISSUE A REQUEST FOR
9 PROPOSALS FROM PROSPECTIVE CONTRACTORS TO CONDUCT A REVIEW OF
10 EXISTING EPIDEMIOLOGICAL DATA TO DETERMINE WHETHER OIL AND GAS
11 OPERATIONS CAN HAVE AN ADVERSE EFFECT ON HUMAN HEALTH. THE
12 REVIEW MUST FOCUS ON AT LEAST FOUR GEOGRAPHIC AREAS SELECTED BY
13 THE CONTRACTOR IN COMPLIANCE WITH PARAGRAPH (b) OF THIS
14 SUBSECTION (2) IN OR NEAR THE COUNTIES OF LARIMER, WELD, BOULDER,
15 AND ARAPAHOE AND ONE OR MORE APPROPRIATE CONTROL AREAS. IN

1 AWARDING THE CONTRACT, THE BOARD SHALL GIVE PREFERENCE TO
2 RESEARCHERS WHO ARE ASSOCIATED WITH AN ACCREDITED INSTITUTION
3 OF HIGHER EDUCATION.

4 (b) THE CONTRACTOR SHALL DESIGN THE REVIEW WITH INPUT
5 FROM MEDICAL RESEARCHERS, STATISTICIANS, AND ENVIRONMENTALISTS
6 TO PROVIDE SCIENTIFICALLY BASED INFORMATION ON ACUTE, CHRONIC,
7 DEBILITATING, FATAL, AND TRANSGENERATIONAL CONDITIONS OF THE
8 GENERAL POPULATION AS WELL AS VULNERABLE POPULATIONS SUCH AS
9 CHILDREN, PREGNANT WOMEN, THE ELDERLY, AND THOSE WHOSE HEALTH
10 IS ALREADY IMPAIRED. THE REVIEW MUST ANALYZE EXISTING INCIDENCE
11 DATA FOR AN APPROPRIATE PERIOD OF TIME BEFORE AND AFTER THE
12 COMMENCEMENT OF OIL AND GAS OPERATIONS IN EACH PARTICULAR
13 GEOGRAPHIC AREA.

14 (c) THE CONTRACTOR SHALL ANALYZE THE DATA FROM THE
15 REVIEW AND PREPARE, IN CONSULTATION WITH THE OVERSIGHT
16 COMMITTEE CREATED IN SUBSECTION (4) OF THIS SECTION, A FINAL REPORT
17 BY MARCH 15, 2014. THE BOARD SHALL PUBLISH THE REPORT ON THE
18 BOARD'S WEB SITE. THE BOARD SHALL PROVIDE COPIES OF THE REPORT TO
19 THE COMMITTEES OF THE GENERAL ASSEMBLY WITH JURISDICTION OVER
20 PUBLIC HEALTH, THE ENVIRONMENT, AND NATURAL RESOURCES.

21 (3) THE REVIEW:

22 (a) MAY INCLUDE A SPECIFIC FINDING IN THE FINAL REPORT OR
23 ANY INTERIM REPORT, MADE IN CONSULTATION WITH THE OVERSIGHT
24 COMMITTEE CREATED IN SUBSECTION (4) OF THIS SECTION, REGARDING
25 WHETHER THE DIVISION OF ADMINISTRATION IN THE DEPARTMENT OR THE
26 COLORADO OIL AND GAS CONSERVATION COMMISSION SHOULD EXERCISE
27 ITS POWER TO ISSUE A CEASE-AND-DESIST ORDER UNDER SECTION

1 25-7-113 (1) (a) (I), 25-8-307 (1) (a), OR 34-60-106 (2) (d), C.R.S. IF THE
2 REPORT FINDS THAT THE DIVISION OR COMMISSION SHOULD EXERCISE ONE
3 OF THOSE POWERS, THE REPORT MUST ALSO IDENTIFY:

4 (I) THE SPECIFIC MUNICIPALITIES IN WHICH THE AFFECTED
5 POPULATION RESIDES OR, IF THE AFFECTED POPULATION RESIDES IN AN
6 UNINCORPORATED PORTION OF ONE OR MORE COUNTIES, THE COUNTIES IN
7 WHICH THE AFFECTED POPULATION RESIDES; AND

8 (II) THE SPECIFIC OIL AND GAS FACILITY OR FACILITIES THAT
9 SHOULD BE SUBJECT TO THE ORDER OR ORDERS; AND

10 (b) MUST:

11 (I) BE PEER-REVIEWED;

12 (II) INCLUDE EXPERTS FAMILIAR WITH DATA ANALYSIS RELEVANT
13 TO ENVIRONMENTAL HEALTH; AND

14 (III) DETERMINE TO WHAT EXTENT A CORRELATION MAY BE
15 ESTABLISHED BETWEEN THE EPIDEMIOLOGICAL DATA AND THE DURATION
16 AND TYPE OF EXPOSURE TO OIL AND GAS OPERATIONS.

17 (4) (a) THERE IS HEREBY CREATED AN OVERSIGHT COMMITTEE FOR
18 THE REVIEW. THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

19 (I) THREE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
20 REPRESENTATIVES, INCLUDING ONE LEGISLATOR;

21 (II) TWO MEMBERS APPOINTED BY THE MINORITY LEADER OF THE
22 HOUSE OF REPRESENTATIVES;

23 (III) THREE MEMBERS APPOINTED BY THE PRESIDENT OF THE
24 SENATE, INCLUDING ONE LEGISLATOR;

25 (IV) TWO MEMBERS APPOINTED BY THE MINORITY LEADER OF THE
26 SENATE; AND

27 (V) ONE MEMBER APPOINTED BY THE GOVERNOR TO REPRESENT

1 THE DEPARTMENT.

2 (b) A MEMBER OF THE COMMITTEE MUST NOT HAVE A DIRECT
3 FINANCIAL INTEREST IN AN OIL AND GAS OPERATOR AS THAT TERM IS
4 DEFINED IN SECTION 34-60-103 (6.8), C.R.S. LEGISLATIVE APPOINTEES
5 WHO ARE NOT LEGISLATORS MUST EITHER BE PHYSICIANS OR HAVE
6 EXPERIENCE IN OCCUPATIONAL OR PUBLIC HEALTH, EPIDEMIOLOGY,
7 BIOMEDICAL SCIENCE, OR STATISTICS. THE APPOINTING AUTHORITIES
8 SHALL MAKE THEIR APPOINTMENTS BY JULY 1, 2013.

9 (c) THE CONTRACTOR SHALL SUBMIT INTERIM REPORTS AND A
10 DRAFT FINAL REPORT TO THE COMMITTEE ON A SCHEDULE ESTABLISHED BY
11 THE COMMITTEE IN CONSULTATION WITH THE CONTRACTOR.

12 (d) THE COMMITTEE SHALL DETERMINE WHETHER A FOLLOW-UP
13 STUDY TO COLLECT AND ANALYZE NEW EPIDEMIOLOGICAL DATA
14 REGARDING THE EFFECTS OF OIL AND GAS OPERATIONS ON HUMAN HEALTH
15 IS WARRANTED. THE FINAL REPORT MUST INCLUDE THE COMMITTEE'S
16 DETERMINATION. IF THE COMMITTEE DETERMINES THAT A FOLLOW-UP
17 STUDY IS WARRANTED, THE FINAL REPORT MUST INCLUDE GUIDELINES
18 REGARDING THE ELEMENTS THAT SHOULD BE INCLUDED IN THE STUDY.

19 (5) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2014.

20 **SECTION 2.** In Colorado Revised Statutes, 34-60-124, **amend**

21 (4) (a) (II) as follows:

22 **34-60-124. Oil and gas conservation and environmental**
23 **response fund.** (4) The oil and gas conservation and environmental
24 response fund may be expended:

25 (a) By the commission, or by the director at the commission's
26 direction, prior to, during, or after the conduct of oil and gas operations
27 to:

1 (II) Gather background or baseline data on any air, water, soil, ~~or~~
2 biological resource, OR HUMAN HEALTH IMPACTS that the commission
3 determines may ~~be so impacted by~~ RESULT FROM the conduct of oil and
4 gas operations, INCLUDING THE REVIEW CONDUCTED PURSUANT TO
5 SECTION 25-1-122.3, C.R.S.; and

6 **SECTION 3.** In Colorado Revised Statutes, 25-7-113, **amend** (1)
7 introductory portion and (1) (a) as follows:

8 **25-7-113. Air pollution emergencies endangering public**
9 **welfare anywhere in this state - repeal.** (1) Whenever the division
10 determines, after investigation, that any person is either engaging in any
11 activity involving a significant risk of air pollution or is discharging or
12 causing to be discharged into the atmosphere, directly or indirectly, any
13 air pollutants and such activity or discharge does not constitute a clear,
14 present, and immediate danger to the health of the public, but is of such
15 a nature as to cause extreme discomfort or that it is an immediate danger
16 to the welfare of the public because such pollutants make habitation of
17 residences or the conduct of businesses subjected to the pollutants
18 extremely unhealthy or disruptive, the division shall TAKE ONE OR BOTH
19 OF THE FOLLOWING ACTIONS:

20 (a) (I) Issue a written cease-and-desist order to ~~said~~ THE person
21 requiring immediate discontinuance of such activity or the discharge of
22 ~~such~~ THE pollutant into the atmosphere, and, upon receipt of ~~such~~ THE
23 order, ~~such~~ THE person shall immediately discontinue such activity or
24 discharge. ~~or~~

25 (II) (A) THE DIVISION SHALL EXERCISE ITS AUTHORITY UNDER
26 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) WITH REGARD TO AN OIL AND
27 GAS FACILITY THAT IS SPECIFICALLY IDENTIFIED IN A REPORT PREPARED

1 UNDER SECTION 25-1-122.3 (3) (a), C.R.S., IF THE REPORT INCLUDES A
2 FINDING THAT THE DIVISION SHOULD EXERCISE ITS POWER UNDER
3 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) AND THE DIVISION AGREES
4 THAT ONE OR MORE OF THE CONDITIONS SPECIFIED IN THE INTRODUCTORY
5 PORTION OF THIS SUBSECTION (1) HAVE BEEN MET.

6 (B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE SEPTEMBER
7 1, 2014.

8 **SECTION 4.** In Colorado Revised Statutes, **amend** 25-8-307 as
9 follows:

10 **25-8-307. Emergencies - repeal.** (1) (a) Whenever the division
11 determines, after investigation, that any person is discharging or causing
12 to be discharged or is about to discharge into any state waters, directly or
13 indirectly, any pollutant ~~which~~ THAT in the opinion of the division
14 constitutes a clear, present, and immediate danger to the health or
15 livelihood of members of the public, the division shall issue its written
16 order to said person that he ~~must~~ OR SHE SHALL immediately cease or
17 prevent the discharge of such pollutant into such waters and thereupon
18 such person shall immediately discontinue such discharge.

19 (b) (I) THE DIVISION SHALL EXERCISE ITS AUTHORITY UNDER
20 PARAGRAPH (a) OF THIS SUBSECTION (1) WITH REGARD TO AN OIL AND GAS
21 FACILITY THAT IS SPECIFICALLY IDENTIFIED IN A REPORT PREPARED UNDER
22 SECTION 25-1-122.3 (3) (a), C.R.S., IF THE REPORT INCLUDES A FINDING
23 THAT THE DIVISION SHOULD EXERCISE ITS POWERS UNDER PARAGRAPH (a)
24 OF THIS SUBSECTION (1) AND THE DIVISION AGREES THAT ONE OR MORE OF
25 THE CONDITIONS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1)
26 HAVE BEEN MET.

27 (II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE SEPTEMBER 1,

1 2014.

2 (2) Concurrently with the issuance of ~~such~~ AN order UNDER
3 SUBSECTION (1) OF THIS SECTION, the division may seek a restraining
4 order or injunction pursuant to section 25-8-607.

5 **SECTION 5.** In Colorado Revised Statutes, 34-60-106, **amend**
6 (2) (d) as follows:

7 **34-60-106. Additional powers of commission - rules - repeal.**

8 (2) The commission has the authority to regulate:

9 (d) (I) Oil and gas operations so as to prevent and mitigate
10 significant adverse environmental impacts on any air, water, soil, or
11 biological resource resulting from oil and gas operations to the extent
12 necessary to protect public health, safety, and welfare, including
13 protection of the environment and wildlife resources, taking into
14 consideration cost-effectiveness and technical feasibility.

15 (II) WHENEVER THE COMMISSION DETERMINES, AFTER
16 INVESTIGATION, THAT AN OPERATOR IS CONDUCTING OIL AND GAS
17 OPERATIONS IN A MANNER THAT CONSTITUTES A CLEAR, PRESENT, AND
18 IMMEDIATE DANGER TO THE HEALTH OF THE PUBLIC, THE COMMISSION
19 SHALL ISSUE A WRITTEN CEASE-AND-DESIST ORDER TO THE OPERATOR TO
20 IMMEDIATELY CEASE SUCH OPERATIONS, AND THEREUPON THE OPERATOR
21 SHALL IMMEDIATELY DISCONTINUE SUCH OPERATIONS.

22 (III) (A) THE COMMISSION SHALL EXERCISE ITS AUTHORITY UNDER
23 SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) WITH REGARD TO AN
24 OPERATOR WHOSE OIL AND GAS FACILITY IS SPECIFICALLY IDENTIFIED IN
25 A REPORT PREPARED UNDER SECTION 25-1-122.3 (3) (a), C.R.S., IF THE
26 REPORT INCLUDES A FINDING THAT THE COMMISSION SHOULD EXERCISE ITS
27 POWERS UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) AND THE

1 COMMISSION AGREES THAT THE CONDITION SPECIFIED IN SUBPARAGRAPH
2 (II) OF THIS PARAGRAPH (d) HAS BEEN MET.

3 (B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE SEPTEMBER
4 1, 2014.

5 **SECTION 6. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.