

Be it enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 34-60-104.7 as follows:

34-60-104.7. Colorado independent oil and gas commission. (1) Declaration of the people.

THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT:

(a) OIL AND GAS DEVELOPMENT SHOULD BE RIGOROUSLY AND COMPREHENSIVELY REGULATED BY AN INDEPENDENT COMMISSION, AS FAR REMOVED FROM PARTISAN, POLITICAL, AND INTEREST GROUP PRESSURE AS IS PRACTICABLE, IN A MANNER THAT PROTECTS THE PUBLIC HEALTH, SAFETY, AND WELFARE OF CITIZENS IN BALANCE WITH THE RESPONSIBLE DEVELOPMENT OF OIL AND GAS RESOURCES;

(b) OIL AND GAS REGULATION ATTAINED THROUGH OVERLY POLITICAL PROCESSES LEADS TO IRRATIONAL AND ARBITRARY SWINGS IN POLICY THAT NEITHER PROTECT PUBLIC HEALTH NOR PROMOTE REGULATORY CERTAINTY FOR PROPERTY OWNERS, COMMUNITIES, OR OPERATORS;

(c) OIL AND GAS DEVELOPMENT POLICY AND RELATED HEALTH AND SAFETY ISSUES ARE COMPLEX AND REQUIRE PROFESSIONAL EXPERTISE AND IMPARTIAL DECISION-MAKING, AND, TO THAT END, THE INDEPENDENT OIL AND GAS COMMISSION SHOULD CONSIST OF MEMBERS WITH EXPERTISE IN APPLICABLE FIELDS OF SCIENCE, ENGINEERING, ENVIRONMENTAL PROTECTION, AND NATURAL RESOURCE MANAGEMENT, SELECTED THROUGH PROCESSES WITH CHECKS AND BALANCES THAT WOULD PREVENT ANY ONE OR MORE PERSON, POLITICAL PARTY, OR INTEREST GROUP FROM EXERTING CONTROL OR UNDUE INFLUENCE OVER THE DECISIONS OF THE COMMISSION. COMMISSION MEMBERS SHOULD BE SELECTED THROUGH A MERIT-BASED, FAIR, AND NEUTRAL PROCESS THAT AVOIDS APPOINTMENT OF INDIVIDUALS WHO ARE BIASED OR UNQUALIFIED OR WHO HAVE A CONFLICT OF INTEREST, INSTEAD ELEVATING THE VALUES OF SOUND SCIENCE, ENGINEERING PRINCIPLES, AND COLLABORATIVE DECISION-MAKING THAT PRIORITIZE BALANCED AND REASONABLE REGULATORY ACTION; AND

(d) THE COMMISSION SHALL ESTABLISH RULES AND MAKE DECISIONS THROUGH THE APPLICATION OF BEST AVAILABLE SCIENCE AND ENGINEERING PRINCIPLES AND CONSIDERATION OF LOCAL INPUT, AND SHALL SEEK TO RESOLVE CONFLICTING FACTORS AND VALUES IN A BALANCED, REASONABLE AND JUDICIOUS MANNER;

(2) THERE IS HEREBY CREATED THE COLORADO INDEPENDENT OIL AND GAS COMMISSION.

(3)(a) EFFECTIVE JULY 1, 2023, THE COMMISSION SHALL CONSIST OF SIX MEMBERS, AND EACH SHALL HAVE THE FOLLOWING MINIMUM QUALIFICATIONS:

(I) IS A QUALIFIED ELECTOR OF THIS STATE WHO HAS BEEN UNAFFILIATED WITH ANY POLITICAL PARTY OR HAS BEEN AFFILIATED WITH THE SAME POLITICAL PARTY FOR A CONSECUTIVE PERIOD OF NO LESS THAN FIVE YEARS AT THE TIME OF THE APPLICATION; AND

(II) HAS AT LEAST TEN YEARS OF PROFESSIONAL EXPERIENCE RELEVANT TO THE COMMISSION'S ACTIVITIES AND JURISDICTION.

(b) THE COMMISSION SHALL BE COMPOSED OF TWO MEMBERS WHO ARE NOT AFFILIATED WITH ANY POLITICAL PARTY, TWO MEMBERS WHO ARE AFFILIATED WITH THE STATE'S REPUBLICAN POLITICAL PARTY, AND TWO MEMBERS WHO ARE AFFILIATED WITH THE STATE'S DEMOCRATIC POLITICAL PARTY.

(c) NO PERSON MAY BE APPOINTED TO SERVE ON THE COMMISSION IF THE PERSON HAS A CONFLICT OF INTEREST THAT WOULD HINDER THE ABILITY TO RENDER INFORMED, THOROUGH, AND BALANCED DECISION-MAKING REGARDING OIL AND GAS DEVELOPMENT IN COLORADO. EXAMPLES OF CONFLICTS OF INTEREST INCLUDE HOLDING A FINANCIAL INTEREST IN OR SERVING IN AN OFFICIAL CAPACITY WITH AN ENTITY THAT ADVOCATES FOR OR AGAINST OIL AND GAS DEVELOPMENT WITHIN THE THREE YEARS PRIOR TO APPOINTMENT AND BEING REGISTERED AS AN LOBBYIST WORKING ON ENVIRONMENTAL OR OIL AND GAS ISSUES AT THE LOCAL OR STATE LEVEL. THIS SUBPARAGRAPH (3)(c) SHALL BE CONSTRUED REASONABLY WITH THE OBJECTIVE OF DISQUALIFYING FROM THE COMMISSION ANY PERSON WHO MIGHT HAVE AN IMMEDIATE CONFLICT OF INTEREST OR WHO MAY NOT BE ABLE TO MAKE BALANCED DECISIONS ABOUT OIL AND GAS REGULATION IN COLORADO. A GOVERNMENT OFFICIAL OR PERSON WHO HAS WORKED WITH OR FOR AN ENERGY OR ENVIRONMENTAL ENTITY NEED NOT BE DISQUALIFIED IF THE PERSON'S EXPERIENCE SHOWS SUBJECT MATTER KNOWLEDGE COUPLED WITH AN ABILITY TO RENDER INFORMED, THOROUGH, AND BALANCED DECISION-MAKING.

(4) COMMISSIONERS SHALL BE APPOINTED AS FOLLOWS:

(a) FOR THE INITIAL APPOINTMENT OF COMMISSIONERS EFFECTIVE JULY 1, 2023, ALL SIX COMMISSIONERS SHALL BE CHOSEN FROM A LIST OF TWENTY NOMINEES, AND THE LIST OF NOMINEES SHALL BE ESTABLISHED PURSUANT TO THIS SUBSECTION (4) BY APRIL 1, 2023. THE LIST OF NOMINEES MUST CONSIST OF QUALIFIED INDIVIDUALS AND HAVE A BALANCED REPRESENTATION OF POLITICAL AFFILIATIONS INCLUDING UNAFFILIATED, WITH EACH MAJOR POLITICAL PARTY BEING REPRESENTED EQUALLY.

(b) AFTER JULY 1, 2023, FOR ANY VACANCY ON THE COMMISSION OCCURRING AT THE END OF A TERM OR OTHERWISE, THE COMMISSIONER FILLING THE VACANCY SHALL BE CHOSEN FROM A LIST OF THREE NOMINEES, ESTABLISHED PURSUANT TO THIS SUBSECTION (4), WHO HAVE THE SAME POLITICAL AFFILIATION AS THE MEMBER THAT HAS CREATED OR WILL CREATE THE VACANCY. THE LIST OF NOMINEES SHALL BE ESTABLISHED AT LEAST THIRTY DAYS PRIOR TO THE END OF A COMMISSIONER'S TERM, OR WITHIN SIXTY DAYS AFTER ANY OTHER VACANCY.

(c) (I) EACH LIST OF NOMINEES SHALL BE ESTABLISHED THROUGH A JOINT NOMINATION PROCESS AND THE MUTUAL AGREEMENT OF EITHER:

(A) THE GOVERNOR AND, IF THE GOVERNOR IS AFFILIATED WITH A MAJOR POLITICAL PARTY AS DEFINED IN SECTION 1-1-104, C.R.S., THE HIGHEST-RANKING SENATE OFFICER FROM A DIFFERENT MAJOR POLITICAL PARTY; OR

(B) THE GOVERNOR AND, IF THE GOVERNOR IS NOT AFFILIATED WITH A MAJOR POLITICAL PARTY AS DEFINED IN SECTION 1-1-104, C.R.S., THE TWO HIGHEST-RANKING SENATE OFFICERS FROM DIFFERENT MAJOR POLITICAL PARTIES.

(II) IF THE NOMINATION PROCESS IN SECTION (c)(I) OF THIS SECTION FAILS TO PRODUCE THE NUMBER OF NOMINEES IN SUBSECTIONS (4)(a) AND (b) OF THIS SECTION BY THE DATE SPECIFIED, THE PANEL DESIGNATED PURSUANT TO SUBSECTION (4)(d) OF THIS SECTION MAY SOLICIT APPLICANTS TO BE CONSIDERED FOR APPOINTMENT.

(d)(I) THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT SHALL DESIGNATE A PANEL TO APPOINT THE INITIAL MEMBERS AND ADDITIONAL PANELS TO APPOINT MEMBERS TO FILL ANY VACANCY. A PANEL MUST CONSIST OF THREE RETIRED JUSTICES OR JUDGES FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS. IF FEWER THAN THREE ELIGIBLE PARTICIPANTS FOR THE PANEL HAVE BEEN IDENTIFIED WHO ARE ABLE AND WILLING TO SERVE, THE CHIEF JUSTICE MAY APPOINT RETIRED COLORADO TRIAL COURT JUDGES TO A PANEL. ON ANY GIVEN PANEL, NO PANELIST MAY BE AFFILIATED WITH THE SAME POLITICAL PARTY AS ANOTHER PANELIST, AND ONE PANELIST MUST BE AFFILIATED WITH EACH MAJOR POLITICAL PARTY.

(II) IN SELECTING INDIVIDUALS TO APPOINT TO THE COMMISSION, THE PANEL SHALL CONSIDER APPLICANTS' QUALIFICATIONS AND, TO THE EXTENT POSSIBLE:

(A) SEEK TO HAVE THE MEMBERSHIP OF THE COMMISSION REFLECT COLORADO'S RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY; AND

(B) ENDEAVOR TO APPOINT MEMBERS THAT REPRESENT A VARIETY OF RELEVANT EXPERTISE, INCLUDING BUT NOT LIMITED TO, PUBLIC HEALTH, ENVIRONMENTAL REGULATION, WILDLIFE PROTECTION, LAND USE PLANNING, OIL AND GAS OPERATIONS, EARTH SCIENCE, ENGINEERING, AGRICULTURAL STEWARDSHIP, AND RESOURCE CONSERVATION AND MANAGEMENT, AND THAT HAVE THE ABILITY TO BE IMPARTIAL.

(C) ALL DECISIONS OF THE PANEL REGARDING THE SELECTION OF APPLICANTS PURSUANT TO THIS SECTION REQUIRE THE AFFIRMATIVE APPROVAL OF ALL THREE MEMBERS OF THE PANEL.

(5)(a) COMMISSION MEMBERS SHALL SERVE TERMS OF FOUR YEARS EACH; EXCEPT THAT, FOR THE INITIAL MEMBERS WITH TERMS EFFECTIVE JULY 1, 2023, THE PANEL SHALL APPOINT THREE OF THE MEMBERS AT ITS DISCRETION FOR INITIAL TERMS OF TWO YEARS EACH. IF A COMMISSION MEMBER IS APPOINTED TO FILL AN UNEXPIRED TERM, THAT MEMBER SHALL SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM. MEMBERS MAY BE APPOINTED TO SERVE SUCCESSIVE TERMS BUT SHALL NOT SERVE FOR MORE THAN TEN TOTAL YEARS ON THE COMMISSION.

(b) A MEMBER'S POSITION ON THE COMMISSION WILL BE DEEMED VACANT IF THE MEMBER, HAVING BEEN APPOINTED NOT AFFILIATED WITH A POLITICAL PARTY, AFFILIATES WITH A POLITICAL PARTY DURING THE MEMBER'S TERM. A MEMBER'S POSITION ON THE COMMISSION WILL ALSO BE DEEMED VACANT IF THE MEMBER, HAVING BEEN AFFILIATED WITH ONE OF THE STATE'S TWO LARGEST POLITICAL PARTIES AT THE TIME OF APPOINTMENT, AFFILIATES WITH A DIFFERENT POLITICAL PARTY OR BECOMES UNAFFILIATED WITH ANY POLITICAL PARTY DURING THE MEMBER'S TERM.

(c) A MEMBER MAY BE REMOVED FOR INCOMPETENCY, NEGLIGENCE OF DUTY, CONFLICT OF INTEREST, OR MALFEASANCE IN OFFICE BY THE VOTE OF TWO-THIRDS OF THE COMMISSION MEMBERS.

(6) A MAJORITY OF THE COMMISSION CONSTITUTES A QUORUM FOR THE TRANSACTION OF ITS BUSINESS. THE COMMISSION SHALL APPOINT A CHAIR AND VICE-CHAIR WHO SHALL POSSESS SUCH QUALIFICATIONS AS MAY BE ESTABLISHED BY THE COMMISSION.

(7) COMMISSION MEMBERS SHALL SERVE WITHOUT COMPENSATION; EXCEPT THAT COMMISSION MEMBERS SHALL BE REIMBURSED FOR THE ACTUAL AND NECESSARY EXPENSES THAT THEY INCUR IN CARRYING OUT THEIR DUTIES AND RESPONSIBILITIES AS COMMISSION MEMBERS.

(8)(a) ALL REGULATORY AUTHORITY OVER OIL AND GAS DEVELOPMENT ARE HEREBY VESTED IN THE COMMISSION, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

(b) IN THE EXECUTION OF THE POWERS VESTED IN THE COMMISSION, THE COMMISSION SHALL REGULATE OIL AND GAS OPERATIONS IN A REASONABLE MANNER TO MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES AND SHALL PROTECT AGAINST ADVERSE ENVIRONMENTAL IMPACTS ON ANY AIR, WATER, SOIL, OR BIOLOGICAL RESOURCE RESULTING FROM OIL AND GAS OPERATIONS.

(c) THE COMMISSION SHALL ENSURE THAT OPPORTUNITIES FOR PUBLIC COMMENT ARE MEANINGFUL AND REASONABLE.

(d) THE COMMISSION SHALL ADOPT AS ITS INITIAL RULES AND POLICIES THE OIL AND GAS CONSERVATION COMMISSION RULES AND POLICIES AS THEY EXISTED ON THE EFFECTIVE DATE OF THIS SECTION. THESE INITIAL RULES AND POLICIES MAY BE ADOPTED WITHOUT PRIOR NOTICE, OPPORTUNITY FOR COMMENT, HEARING, OR OTHER USUAL RULEMAKING PROCEDURES.

(e) THE COMMISSION'S AUTHORITY TO RENDER DECISIONS TO APPROVE OR DENY PERMIT APPLICATIONS AND RENEWALS IS DELEGATED TO THE DIRECTOR. THE COMMISSION SHALL PROMULGATE SUCH REGULATIONS AS MAY BE NECESSARY AND PROPER FOR THE ORDERLY, EFFECTIVE, AND EFFICIENT ADMINISTRATION OF PERMITS BY THE DIRECTOR. THE DIRECTOR SHALL ISSUE PERMITS IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND REGULATIONS PROMULGATED BY THE COMMISSION. A PERMIT APPLICANT MAY REQUEST A HEARING BY THE COMMISSION TO REVIEW THE DIRECTOR'S DECISION REGARDING THE APPLICANT'S PERMIT, PURSUANT TO REGULATIONS ESTABLISHED BY THE COMMISSION, AND THE COMMISSION MAY OVERTURN THE DIRECTOR'S DECISION REGARDING ISSUANCE OR DENIAL OF A PERMIT BY TWO-THIRDS VOTE OF THE COMMISSION. SUCH COMMISSION DECISION IS FINAL.

(9) NOTHING IN THIS SECTION ALTERS, IMPAIRS, OR NEGATES THE AUTHORITY OF A LOCAL GOVERNMENT TO REGULATE OIL AND GAS DEVELOPMENT PURSUANT TO ARTICLE 65.1 OF TITLE 24 AND SECTIONS 29-20-104 AND 34-60-131, COLORADO REVISED STATUTES.

(10) THE GENERAL ASSEMBLY SHALL APPROPRIATE REASONABLE AND NECESSARY FUNDS TO COVER STAFF AND ADMINISTRATIVE EXPENSES TO ALLOW THE COMMISSION TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 34-60-105, **amend** (1)(b) as follows:

34-60-105. Powers of commission.

(1)(b) Any delegation of authority to any other state officer, board, or commission to administer any other laws of this state relating to the conservation of oil or gas, or either of them, is hereby rescinded and withdrawn, and that authority is unqualifiedly conferred upon the commission, as provided in this section; except that, as further specified in section 34-60-131, ~~nothing in this article 60 alters, impairs, or negates the authority of~~ BECAUSE THE FOLLOWING AREAS OF REGULATION ARE OF SUCH IMPORTANCE IN BALANCING THE PUBLIC HEALTH, SAFETY AND WELFARE OF CITIZENS WITH RESPONSIBLE DEVELOPMENT THAT REVIEW AND OVERSIGHT BY MORE THAN ONE AUTHORITY IS WARRANTED, THE FOLLOWING ENTITIES OR ANY SUCCESSOR ENTITIES HAVE THE AUTHORITY TO ADOPT RULES PURSUANT TO THE FOLLOWING STATUTES OR SUCCESSOR STATUTES, BUT SUCH RULES SHALL ONLY BECOME EFFECTIVE UPON APPROVAL OF THE COMMISSION:

(I) The air quality control commission ~~to regulate, pursuant to~~ FOR RULES REGARDING article 7 of title 25, the emission of air pollutants from oil and gas operations;

(II) The water quality control commission ~~to regulate, pursuant to~~ FOR RULES REGARDING article 8 of title 25, the discharge of water pollutants from oil and gas operations;

(III) The state board of health ~~to regulate, pursuant to~~ FOR RULES REGARDING section 25-11-104, the disposal of naturally occurring radioactive materials and technologically enhanced naturally occurring radioactive materials from oil and gas operations;

(IV) The solid and hazardous waste commission ~~to~~ FOR RULES REGARDING:

(A) ~~Regulate, pursuant to~~ article 15 of title 25, the disposal of hazardous waste from oil and gas operations; or

(B) ~~Regulate, pursuant to~~ section 30-20-109(1.5), the disposal of exploration and production waste from oil and gas operations; and

(V) ~~A local government to regulate oil and gas operations pursuant to section 29-20-104.~~

SECTION 3. In Colorado Revised Statutes, **add** 34-60-132 as follows:

34-60-132. Independent commission ethics.

(1) MEMBERS OF THE INDEPENDENT COMMISSION ARE GUARDIANS OF THE PUBLIC TRUST AND ARE SUBJECT TO ANTIBRIBERY AND ABUSE OF PUBLIC OFFICE REQUIREMENTS AS PROVIDED IN PARTS 3 AND 4 OF ARTICLE 8 OF TITLE 18.

(2) TO ENSURE TRANSPARENCY IN THE OIL AND GAS REGULATORY PROCESS:

(a) THE INDEPENDENT COMMISSION IS SUBJECT TO OPEN MEETINGS REQUIREMENTS AS PROVIDED IN PART 4 OF ARTICLE 6 OF TITLE 24;

(b) THE INDEPENDENT COMMISSION, EACH COMMISSION MEMBER, AND COMMISSION STAFF ARE SUBJECT TO OPEN RECORDS REQUIREMENTS AS PROVIDED IN PART 1 OF ARTICLE 72 OF TITLE 24;
AND

(c) THE COMMISSION MEMBERS ARE “COVERED OFFICIALS” UNDER 24-6-301(1.7)(b) AND PART 3 OF ARTICLE 6 OF TITLE 24 SHALL APPLY.

SECTION 4. In Colorado Revised Statutes, 24-1-124, **amend** (3)(f) as follows:

24-1-124. Department of natural resources - creation - divisions.

(3)(f) The ~~oil and gas conservation commission of the state of Colorado~~ COLORADO INDEPENDENT OIL AND GAS COMMISSION and the office of the director thereof, created by article 60 of title 34, C.R.S. ~~Said commission and office and the powers, duties, and functions thereof are transferred by a type 1 transfer to the department of natural resources as a division thereof.~~ THE COMMISSION SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED BY A **TYPE 1** TRANSFER.

SECTION 5. In Colorado Revised Statutes, 34-60-103, **amend** (2) as follows:

34-60-103. Definitions.

As used in this article 60, unless the context otherwise requires:

(2) "Commission" means the ~~oil and gas conservation commission~~ COLORADO INDEPENDENT OIL AND GAS COMMISSION.

SECTION 6. In Colorado Revised Statutes, **repeal** 34-60-104.3.

SECTION 7. In Colorado Revised Statutes, 34-60-104.5, **amend** (1) as follows:

34-60-104.5. Director of commission – duties. (1) Pursuant to section 13 of article XII of the state constitution, the ~~executive director of the department of natural resources~~ COMMISSION shall appoint a director of the commission WITH AT LEAST TWO-THIRDS OF MEMBERS’ APPROVAL who shall possess such qualifications as may be established by the ~~executive director, the commission, and the state personnel board~~ COMMISSION.

SECTION 8. In Colorado Revised Statutes, 39-29-109.3, **amend** (1)(a) as follows:

39-29-109.3. Severance tax operational fund--core reserve--grant program reserve--definitions—repeal.

(1) For fiscal years commencing on and after July 1, 1997, the executive director of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from the severance tax operational fund created in section 39-29-109(2)(b), referred to in this section as the “operational fund”. The general assembly may appropriate moneys from the total moneys available in the operational fund to fund recommended programs as follows:

(a)(I) For programs or projects within the ~~Colorado oil and gas conservation commission~~ COLORADO INDEPENDENT OIL AND GAS COMMISSION, up to thirty-five percent of the moneys in the operational fund for fiscal years commencing on or after ~~July 1, 2009~~ JULY 1, 2023.

(II) Moneys appropriated for programs or projects pursuant to subparagraph (I) of this paragraph (a) shall be used by the ~~Colorado oil and gas conservation commission~~ COLORADO INDEPENDENT OIL AND GAS COMMISSION for plugging and abandonment projects, for well-site location reclamation projects, or for regulatory and environmental programs or projects as specifically appropriated by the general assembly for use on such programs or projects; except that, if the commission determines that an emergency exists, the commission may expend any moneys received for the emergency without any further appropriation. In determining the uses of these moneys, the commission shall give priority to uses that reduce industry fees and mill levies.

SECTION 9. Revisor of statutes.

The revisor of statutes is authorized to change all references to the oil and gas conservation commission and sections 34-60-104 and 104.3, C.R.S., in the Colorado Revised Statutes to refer to the Colorado independent oil and gas commission and section 34-60-104.7.

SECTION 10. Severability.

If any provision of this initiative or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the initiative that can be given effect without the invalid provision or application, and to this end the provisions of this initiative are declared to be severable.

SECTION 11. Effective date.

Sections 1 and 10 of this act take effect upon the proclamation of the Governor. All other sections of this act take effect on July 1, 2023.