

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-1017.01 Thomas Morris

SENATE BILL 11-235

SENATE SPONSORSHIP

Giron,

HOUSE SPONSORSHIP

Pace and Swerdfeger,

Senate Committees

Agriculture, Natural Resources, and Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING METHODS TO REDUCE THE AIR QUALITY PERMIT**
102 **APPLICATION BACKLOG, AND, IN CONNECTION THEREWITH,**
103 **AUTHORIZING THE USE OF NONGOVERNMENTAL AIR QUALITY**
104 **MODELING ENGINEERS FOR PURPOSES OF PERMIT APPLICATION**
105 **APPROVALS AND MAKING AN APPROPRIATION.**

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>.)

To reduce the current backlog of air quality permit applications,

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.

SENATE
Amended 2nd Reading
April 29, 2011

the bill:

- ! Directs the air quality control commission to adopt a policy by November 1, 2011, to prioritize the division of administration's efforts in processing permit applications based on one or more factors other than the date of filing; and
- ! Directs the division to establish a list of at least 2 approved nongovernmental air quality modeling engineers that an applicant can use to establish its emissions for purposes of the division's permit application analysis. If the list does not include at least 2 modeling engineers on or after June 15, 2011, an applicant may contract with any modeling engineer that is not affiliated with the applicant to establish the applicant's emissions. To be able to use the results of the modeling for purposes of the division's permit application analysis, an applicant must contract with a second modeling engineer that is not affiliated with either the applicant or the first modeling engineer to review the results of the first modeling engineer's work.

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

2 **SECTION 1.** 25-7-114.5, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **25-7-114.5. Application review - public participation.** _____
5 (16) (a) IF THE DIVISION EXPERIENCES A BACKLOG IN PROCESSING AIR
6 QUALITY PERMIT APPLICATIONS CAUSED BY AN OCCASIONAL NEED THAT
7 IS SEASONAL, IRREGULAR, OR FLUCTUATING IN NATURE, AND THE
8 DEPARTMENT DETERMINES OR REASONABLY EXPECTS THAT, AS A RESULT,
9 PERMITS WOULD NOT BE ISSUED WITHIN STATUTORY TIME FRAMES, THE
10 DIVISION SHALL MAKE AVAILABLE TO SOURCES THAT ARE NOT SUBJECT TO
11 PERMITTING UNDER PART C OF THE FEDERAL ACT THE OPTION TO HAVE
12 THE AIR QUALITY MODELING THAT IS SUBMITTED WITH THE APPLICANT'S
13 AIR PERMIT APPLICATION REVIEWED FOR ACCEPTANCE AS DEMONSTRATING
14 COMPLIANCE BY A CONTRACT CONSULTANT SELECTED BY THE DIVISION IN

1 LIEU OF THE REVIEW BEING CONDUCTED BY DIVISION STAFF.

2 (b) THE DIVISION SHALL SELECT AND CONTRACT WITH
3 NONGOVERNMENTAL AIR QUALITY MODELING ENGINEERS TO PERFORM AIR
4 QUALITY MODELING REVIEWS OF APPLICANTS WHO CHOOSE CONTRACT
5 CONSULTANT REVIEW OF THEIR AIR QUALITY PERMIT MODELING. THE
6 DIVISION IS NOT SUBJECT TO THE REQUIREMENTS OF THE "PROCUREMENT
7 CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., IN SELECTING AND
8 CONTRACTING WITH THE CONSULTANTS. THE DIVISION SHALL REVIEW AND
9 EXCLUDE FROM CONSIDERATION AS A CONTRACT AIR QUALITY MODELING
10 CONSULTANT ANY CONTRACTORS WITH A CONFLICT OF INTEREST
11 REGARDING AIR QUALITY PERMIT APPLICATIONS. APPLICANTS THAT
12 CHOOSE CONSULTANT REVIEW OF THEIR AIR QUALITY MODELING ARE
13 RESPONSIBLE FOR BOTH THE CONSULTANT'S COSTS ASSOCIATED WITH THE
14 AIR MODELING REVIEW AS WELL AS THE DIVISION'S COSTS ASSOCIATED
15 WITH THE REVIEW AND DETERMINATION OF THE AIR PERMIT APPLICATION,
16 TO BE PAID TO THE DIVISION. THE DIVISION SHALL TRANSFER THE MONEY
17 TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE STATIONARY
18 SOURCES CONTROL FUND CREATED IN SECTION 25-7-114.7 (2) (b) (I).

19 (c) THE DIVISION SHALL USE THE RESULTS OF THE MODELING
20 CONDUCTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (16) FOR
21 PURPOSES OF THE DIVISION'S PERMIT APPLICATION ANALYSIS.

22 **SECTION 2. Appropriation.** In addition to any other
23 appropriation, there is hereby appropriated, out of any moneys in the
24 stationary sources control fund created in section 25-7-114.7 (2) (b) (I),
25 Colorado Revised Statutes, not otherwise appropriated, to the department
26 of public health and environment, for allocation to the air pollution
27 control division, for the fiscal year beginning July 1, 2011, the sum of one

1 hundred ninety-four thousand three hundred seventy-seven dollars
2 (\$194,377) cash funds and 0.2 FTE, or so much thereof as may be
3 necessary, for the implementation of this act.

4 **SECTION 3. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.