

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-1017.01 Thomas Morris

SENATE BILL 11-235

SENATE SPONSORSHIP

Giron,

HOUSE SPONSORSHIP

Pace and Swerdfefer,

Senate Committees

Agriculture, Natural Resources, and Energy
Appropriations

House Committees

Economic and Business Development
Appropriations

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
3rd Reading Unamended
May 2, 2011

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.

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

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

25-7-114.5. Application review - public participation. _____
(16) (a) IF THE DIVISION EXPERIENCES A BACKLOG IN PROCESSING AIR
QUALITY PERMIT APPLICATIONS THAT THE DEPARTMENT DETERMINES OR
REASONABLY EXPECTS WILL RESULT IN PERMITS NOT BEING ISSUED WITHIN
STATUTORY TIME FRAMES, THE DIVISION SHALL MAKE AVAILABLE TO
SOURCES THAT ARE NOT SUBJECT TO PERMITTING UNDER PART C OF THE
FEDERAL ACT THE OPTION TO HAVE THE AIR QUALITY MODELING THAT IS
SUBMITTED WITH THE APPLICANT'S AIR PERMIT APPLICATION REVIEWED
FOR ACCEPTANCE AS DEMONSTRATING COMPLIANCE BY A CONTRACT
CONSULTANT SELECTED BY THE DIVISION IN LIEU OF THE REVIEW BEING
CONDUCTED BY DIVISION STAFF.

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

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

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

1 (\$194,377) cash funds and 0.2 FTE, or so much thereof as may be
2 necessary, for the implementation of this act.

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