

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 123

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1  
2 RELATING TO THE OIL AND GAS CONSERVATION COMMISSION; AMENDING SECTION  
3 47-317, IDAHO CODE, TO PROVIDE THAT THE COMMISSION'S ACTIONS IN EX-  
4 ERCISING ITS DUTIES AND AUTHORITIES SHALL NOT BE CONSIDERED TO BE  
5 CONTESTED CASES AND TO PROVIDE AN EXCEPTION.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 47-317, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 47-317. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS -- LIMIT  
10 ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created an oil  
11 and gas conservation commission of the state of Idaho within the department  
12 of lands. The commission shall consist of five (5) members appointed by the  
13 governor with the advice and consent of the senate. The members shall serve  
14 at the pleasure of the governor. One (1) member shall be knowledgeable in  
15 oil and gas matters, one (1) member shall be knowledgeable in geological mat-  
16 ters, one (1) member shall be knowledgeable in water matters, one (1) mem-  
17 ber shall be a private landowner who owns mineral rights with the surface  
18 in a county with oil and gas activity and one (1) member shall be a private  
19 landowner who does not own mineral rights.

20 (2) The term of office of each member of the commission shall be four  
21 (4) years, except that upon July 1, 2013, the governor shall appoint one (1)  
22 member for a term of one (1) year, one (1) member for a term of two (2) years,  
23 one (1) member for a term of three (3) years and two (2) members for terms of  
24 four (4) years. After the initial appointment, the governor shall appoint  
25 members to serve in office for a term of four (4) years commencing on July 1.  
26 A vacancy shall be filled by appointment for the unexpired term in the same  
27 manner provided for an appointment to the full term.

28 (3) The commission shall annually elect a chairman and a vice chairman  
29 from their membership. Such officers shall hold their respective offices  
30 until their successors are elected. If a vacancy occurs in either office,  
31 the commission shall elect a member to fill such office for the remainder of  
32 the term.

33 (4) The commission shall meet at least annually and thereafter on dates  
34 set by the commission. A majority of the voting members shall constitute a  
35 quorum.

36 (5) The members of the commission shall be compensated as provided in  
37 section 59-509(n), Idaho Code.

38 (6) Unless the commission appoints another person to be the secretary  
39 of the commission, the director of the department of lands shall be the sec-  
40 retary of the commission.

1 (7) The commission may employ personnel as may be deemed necessary,  
2 prescribe their duties and fix their compensation. In the alternative, the  
3 commission may contract with the department of lands for services.

4 (8) The commission shall have and is hereby given jurisdiction and  
5 authority over all persons and property, public and private, necessary to  
6 enforce the provisions of this act, and shall have power and authority to  
7 make and enforce rules, regulations and orders, and do whatever may reason-  
8 ably be necessary to carry out the provisions of this act. Any delegation  
9 of authority to any other state officer, board or commission to administer  
10 any and all other laws of this state relating to the conservation of oil and  
11 gas is hereby rescinded and withdrawn and such authority is hereby unquali-  
12 fiedly conferred upon the commission, as herein provided. Any person, or the  
13 attorney general, on behalf of the state, may apply for a hearing before the  
14 commission, or the commission may initiate proceedings, upon any question  
15 relating to the administration of this act, and jurisdiction is hereby con-  
16 ferred upon the commission to hear and determine the same and enter its rule,  
17 regulation or order with respect thereto. The commission may designate  
18 hearing officers who shall have the power and authority to conduct hearings  
19 in the name of the commission at any time and place in accordance with the  
20 provisions of chapter 52, title 67, Idaho Code. Provided however, that when  
21 the commission is exercising its duties and authorities granted under this  
22 chapter, such actions shall not be considered to be contested cases as de-  
23 defined in subsection (6) of section 67-5201, Idaho Code, and section 67-5240,  
24 Idaho Code, unless the commission, in its discretion, determines that a con-  
25 tested case hearing would be of assistance to the commission in the exercise  
26 of its duties and authorities.

27 (9) It is the intent of the legislature to occupy the field of the regu-  
28 lation of oil and gas exploration and production with the limited exception  
29 of the exercise of planning and zoning authority granted cities and counties  
30 pursuant to chapter 65, title 67, Idaho Code.

31 (10) To implement the purpose of the oil and gas conservation act, and  
32 to advance the public interest in the orderly development of the state's oil  
33 and gas resources, while at the same time recognizing the responsibility of  
34 local governments to protect the public health, safety and welfare, it is  
35 herein provided that:

36 (a) The commission will notice the respective city or county with ju-  
37 risdiction upon receipt of an application and will remit, electroni-  
38 cally, a copy of all application materials.

39 (b) No ordinance, resolution, requirement or standard of a city, county  
40 or political subdivision, except a state agency with authority, shall  
41 actually or operationally prohibit the extraction of oil and gas; pro-  
42 vided however, that extraction may be subject to reasonable local or-  
43 dinance provisions, not repugnant to law, which protect public health,  
44 public safety, public order or which prevent harm to public infrastruc-  
45 ture or degradation of the value, use and enjoyment of private property.  
46 Any ordinance regulating extraction enacted pursuant to chapter 65,  
47 title 67, Idaho Code, shall provide for administrative permitting un-  
48 der conditions established by ordinance, not to exceed twenty-one (21)  
49 days, unless extended by agreement of the parties or upon good cause  
50 shown.

1 (c) No ordinance, resolution, requirement or standard of a city, county  
2 or political subdivision, except a state agency with authority, shall  
3 actually or operationally prohibit construction or operation of facil-  
4 ities and infrastructure needed for the post-extraction processing and  
5 transport of gas and oil. However, such facilities and infrastructure  
6 shall be subject to local ordinances, regulations and permitting re-  
7 quirements, not repugnant to law, as provided in chapter 65, title 67,  
8 Idaho Code.

9 (11) The commission may sue and be sued in its administration of this  
10 act in any state or federal district court in the state of Idaho having juris-  
11 diction of the parties or of the subject matter.

12 (12) The attorney general shall act as the legal advisor of the commis-  
13 sion and represent the commission in all court proceedings and in all pro-  
14 ceedings before it, and in any proceeding to which the commission may be a  
15 party before any department of the federal government.