

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 17-1096.01 Thomas Morris x4218

HOUSE BILL 17-1336

HOUSE SPONSORSHIP

Foote and Young,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Energy
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL PROTECTIONS FOR OIL AND GAS INTEREST**
102 **OWNERS SUBJECT TO FORCED POOLING OF OIL AND GAS**
103 **RESOURCES.**

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://leg.colorado.gov>.)

Current law authorizes forced pooling, a process by which any interested person—typically an oil and gas operator—may apply to the Colorado oil and gas conservation commission for an order to pool oil and gas resources located within a particularly identified drilling unit. After giving notice to interested parties and holding a hearing, the

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.*

commission can adopt an order to force owners of oil and gas resources within the drilling unit who have not consented to the application (nonconsenting owners) to allow an oil and gas operator to produce the oil and gas within the drilling unit notwithstanding the owners' lack of consent.

The bill specifies that:

- ! At least a majority of the royalty interest owners must join in the application before the commission can enter a forced pooling order;
- ! The hearing notice must be given at least 90 days before the hearing;
- ! Before entry of a pooling order, the prospective drilling unit operator must give the affected interest owners a clearly stated, concise, neutral explanation of the laws governing forced pooling; and
- ! The operators of drilling units shall, before commencing drilling operations, file an electronic report with the commission that states the number and location of nonconsenting owners, and the commission shall post the reports in a searchable database on its website.

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

2 **SECTION 1.** In Colorado Revised Statutes, 34-60-116, **amend**
3 (6), (7)(d), and (8) as follows:

4 **34-60-116. Drilling units - pooling interests.** (6) (a) When two
5 or more separately owned tracts are embraced within a drilling unit, or
6 when there are separately owned interests in all or a part of the drilling
7 unit, then persons owning such interests may pool their interests for the
8 development and operation of the drilling unit.

9 (b) In the absence of voluntary pooling, the commission, upon the
10 application of **any interested person**, may enter an order pooling all
11 interests in the drilling unit for the development and operation thereof.
12 Each such pooling order shall be made after AT LEAST NINETY DAYS'
13 notice and A hearing and shall be upon terms and conditions that are just
14 and reasonable and that afford to the owner of each tract or interest in the

1 drilling unit the opportunity to recover or receive, without unnecessary
2 expense, ~~his~~ A just and equitable share.

3 (c) Operations incident to the drilling of a well upon any portion
4 of a unit covered by a pooling order shall be deemed for all purposes to
5 be the conduct of such operations upon each separately owned tract in the
6 unit by the several owners thereof. That portion of the production
7 allocated or applicable to each tract included in a unit covered by a
8 pooling order shall, when produced, be deemed for all purposes to have
9 been produced from such tract by a well drilled thereon.

10 (7) (d) (I) ~~No~~ THE COMMISSION SHALL NOT ENTER AN order
11 pooling an unleased nonconsenting mineral owner ~~shall be entered by the~~
12 ~~commission under the provisions of~~ PURSUANT TO subsection (6) of this
13 section over THE protest of ~~such~~ THE owner until the commission ~~shall~~
14 ~~have~~ HAS received evidence that ~~such~~ THE PROSPECTIVE OPERATOR OF THE
15 DRILLING UNIT HAS:

16 (A) TENDERED TO THE unleased mineral owner ~~shall have been~~
17 ~~tendered~~ a reasonable offer to lease upon terms no less favorable than
18 those currently prevailing in the area at the time application for ~~such~~ A
19 POOLING order is made;

20 (B) PROVIDED TO THE AFFECTED INTEREST OWNER A CLEARLY
21 STATED, CONCISE, NEUTRAL EXPLANATION OF THE LAWS GOVERNING
22 FORCED POOLING, INCLUDING OPTIONS AVAILABLE TO INTEREST OWNERS
23 AND THE CONSEQUENCES THAT RESULT FROM CHOOSING THOSE OPTIONS,
24 PARTICULARLY STATING THE EFFECTS OF BECOMING A NONCONSENTING
25 OWNER; and

26 (C) ~~that such~~ FURNISHED TO THE unleased mineral owner, ~~shall~~
27 ~~have been furnished~~ in writing, ~~such~~ THE owner's share of the estimated

1 drilling and completion cost of the well, the location and objective depth
2 of the well, and the estimated spud date for the well or range of time
3 within which spudding is to occur.

4 (II) During the period of cost recovery provided in this subsection
5 (7), the commission shall retain jurisdiction to determine the
6 reasonableness of costs of operation of the well attributable to the interest
7 of ~~such~~ THE nonconsenting owner.

8 (8) (a) The operator of a well under a pooling order in which
9 there is a nonconsenting owner shall:

10 (I) (A) SUBJECT TO SUBSECTION (8)(a)(I)(B) OF THIS SECTION,
11 BEFORE COMMENCING DRILLING OPERATIONS WITHIN THE DRILLING UNIT
12 THAT IS SUBJECT TO THE ORDER, FILE AN ELECTRONIC REPORT WITH THE
13 COMMISSION, IN A FORMAT SPECIFIED BY THE COMMISSION, THAT STATES
14 THE NUMBER OF NONCONSENTING OWNERS AND THE PERCENTAGE OF
15 ACRES THAT HAVE BEEN FORCE POOLED WITHIN THE DRILLING UNIT THAT
16 IS SUBJECT TO THE ORDER, WHICH REPORT THE COMMISSION SHALL POST
17 IN A SEARCHABLE DATABASE ON ITS WEBSITE.

18 (B) AN OPERATOR MAY DESIGNATE INFORMATION THAT THE
19 OPERATOR BELIEVES TO BE A TRADE SECRET, PRIVILEGED INFORMATION,
20 OR CONFIDENTIAL COMMERCIAL, FINANCIAL, GEOLOGICAL, OR
21 GEOPHYSICAL DATA AS SPECIFIED IN SECTION 24-72-204 (3)(a)(IV). THE
22 COMMISSION SHALL NOT POST ANY INFORMATION THAT IT OR THE
23 DIRECTOR FINDS MEETS THE CONDITION SPECIFIED IN SECTION 24-72-204
24 (3)(a)(IV).

25 (II) Furnish the nonconsenting owner with a monthly statement of
26 all costs incurred, together with the quantity of oil or gas produced, and
27 the amount of proceeds realized from the sale of production during the

1 preceding month.

2 (b) If the consenting owners recover the costs specified in
3 subsection (7) of this section, the nonconsenting owner shall own the
4 same interest in the well and the production therefrom, and be liable for
5 the further costs of the operation, as if ~~he~~ THE NONCONSENTING OWNER
6 had participated in the initial drilling operation.

7 **SECTION 2. Act subject to petition - effective date -**
8 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
9 the expiration of the ninety-day period after final adjournment of the
10 general assembly (August 9, 2017, if adjournment sine die is on May 10,
11 2017); except that, if a referendum petition is filed pursuant to section 1
12 (3) of article V of the state constitution against this act or an item, section,
13 or part of this act within such period, then the act, item, section, or part
14 will not take effect unless approved by the people at the general election
15 to be held in November 2018 and, in such case, will take effect on the
16 date of the official declaration of the vote thereon by the governor.

17 (2) This act applies to applications for forced pooling orders filed
18 on or after the applicable effective date of this act.