

SB 19-181, as currently written, could make it impossible for the Colorado Oil and Gas Conservation Commission (COGCC) to effectively regulate oil and gas development because the bill creates a standard that potentially could not be met. That same standard could subject the agency to a flood of lawsuits.

When the Commission starts rulemakings to implement SB19-181, it will face arguments that the Commission may not issue any permits until it can demonstrate the impossible – that oil and gas development will have no adverse impacts. Even if the Commission does not adopt that definition, virtually every permit will be challenged at the Commission and then in court on those grounds. Permitting will grind to a halt while the administrative and judicial processes run their course.

Moreover, the bill deletes the current requirement that the COGCC take into consideration the extent to which its decisions are “cost effective” and “technically feasible” for operators to implement. This Bill strips these standards from the Oil and Gas Conservation Act, even though these standards are in **every other** state environmental regulation. For example:

- The identification of remediation alternatives for Hazardous Waste Sites requires the consideration of the “economic and technical feasibility” of the alternatives. § 25-8-204, C.R.S. § 25-16-305, C.R.S.
- The Water Quality Control Commission is required to consider the “technical and economic feasibility” of treatment techniques when issuing water quality standards, establishing water control regulations and issuing permits. §§ 25-8-204, C.R.S. 25-8-205, C.R.S.
- The Air Quality Control Commission, when promulgating emission control regulations, must consider the “availability, technical feasibility, and economic reasonableness” of the control techniques required. § 25-7-109, C.R.S.
- The Mined Land Reclamation Board is required to consider the “economic reasonableness [and] technical feasibility” when promulgating rules governing mining operations. § 34-32-112.5, C.R.S.

The impact of stripping the “cost effective” and “technically feasible” standards in the Bill cannot be overstated. Indeed, the Colorado Supreme Court recently relied on this exact provision in rejecting a claim that the COGCC was required to base all of its decisions **only** on whether a decision would cause **any** impact to the environment.

The stripping of this language coupled with the fact that the COGCC must regulate with the primary goal of preventing any environmental impacts will make it impossible for the COGCC to effectively regulate oil and gas development.

After signing up at 12:00 noon and not being called after sitting here for 10 hours while people who signed up to testify after I did get to speak I had to leave as

## HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

In the Matter of Senate Bill 19-181

I need to drive to the west Slope early in the morning

### WRITTEN TESTIMONY OF KIRSTEN DERR IN OPPOSITION TO SENATE BILL 19-181

- I am a proud Colorado native, DPS Graduate, and Colorado School of Mines graduate and my family has been in Colorado for close to 100 years.
- I am also an Environmental Professional and have worked in consulting and a variety of industries
- I find the manner in which this bill was introduced and pushed to hearing contrary to who we are as Coloradans. We should not lower ourselves to the current standards in Washington DC. Instead all stakeholders should be engaged prior to the introduction of the bill to find a meaningful workable solution that does not have the sweeping impact to the livelihood of so many. I sit on stakeholder committees with the CDPHE where we are all working toward goals of common-sense improvement.
- Introduction of this bill prior to providing a technically appropriate plan for other forms of energy development is irresponsible and inappropriate.
- Neither the governor nor the legislature has revealed how much the governor's energy plan will cost homeowners and tax payers for the conversion of homes, public buildings, and public housing, the establishment of a more extensive electrical grid and the loss of agricultural land due to needed size of solar farms and wind farms
- The renewable energy plan favors the urban wealthy since conversion will be costly for lower-income households and difficult and costly for rural households.
- This bill provides unprecedented authority to a single agency head, eliminating process and objectivity at the COGCC. Unchecked authority breeds corruption.
- Removing technical and professional knowledge of the oil and gas industry from the Oil and Gas Commission is inappropriate. Technical knowledge is an essential perspective for decision making on feasibility and practicality.
- Regulating industry to the point of non-existence will not solve the air pollution problem in the Front Range. This bill does not address either the interstate or international transport of pollutants into the state, nor emissions from motor vehicles, the two largest sources of air pollution in Colorado, based on modeling by The Regional Air Quality Council. 70%-80% of ozone comes from out of states
- CDPHE's air quality study showed low risk and low correlation to suspected oil and gas activity. <https://www.colorado.gov/pacific/cdphe/oghealth/air-quality>. 2017 RACT Report
- The Western Slope suffered for many years following the 1980's recession, the oil and gas industry is one of the largest employers in several western counties, and there is no other significant non-seasonal industry or employer in those counties. Many of my colleagues on the west slope are also native Coloradans that are proud to contribute to the economy in their hometowns, so often forgotten by the Front Range legislators.
- The industry has many professionals committed to developing environmentally responsible methods for producing this resource. The loss of these working scientists and engineers would be a significant intelligence loss to the state, especially those that have the hands-on real world perspective.
- If this bill is truly about health and safety, why hasn't a companion bill regarding requiring real estate development to not encroach on existing oil & gas locations or to conduct more diligence before locating homes near oil and gas. Such regulation would have prevented the Prestone incident.

## FISCAL IMPACT OF SB 19-181

The fiscal of SB 19-181 on energy producing counties, like Weld County, will be significant not only to Weld County government but to all the local taxing jurisdictions in the county. In Weld County over 58% of the assessed valuation is attributed to oil and gas. Of the nearly \$850 million in property taxes paid in Weld County in 2019, over \$490 million will be paid by energy companies. The energy companies are paying nearly \$200 million in property taxes to Weld County school districts alone. If SB 181 causes a decline in the oil and gas production in Weld County, the ultimate impact could be that the State of Colorado, under the state's school finance act, would have to make up the loss in revenue from other state revenue sources to keep the schools financially whole.

The adverse impacts of SB 181 on oil and gas production would result in the immediate reduction of property tax revenues in Weld County. With the fracking process used for horizontal wells in the Niabrara formation, oil wells produce their greatest flow rate when first drilled or worked-over. A well's production may decline by more than half in the first year. This is a much faster drop than conventional oil wells, because shale has very low permeability. Looking at the production the last three years in Weld County, new first-year production ranged from 30% to 35% of the total production. This demonstrates without ongoing new wells or work-overs the production would drop dramatically in 2-3 years. Impact from the loss of tax revenues from SB 181 would be felt in a very short time the consequences being in a dramatic service reduction for fire districts, water districts, and sanitation districts.

The loss of oil and gas revenue in Weld County would be felt in other areas of the state, well beyond the boundaries of Weld County. As already mentioned, the loss of revenues to the school districts will require the state to backfill dollars for education. Besides property tax, the oil and producers in Weld County are paying state severance tax, which funds state programs in the Colorado Department of Natural Resources and Colorado Department of Local Affairs (DOLA). The DOLA Energy Impact Assistance grant program funds annually between \$75- \$100 million of local government projects throughout the state, including many dollars going to non-energy producing jurisdictions. The DOLA severance tax direct distribution to Colorado municipalities and counties throughout the state was \$16.2 million in 2018, Federal Mineral Leasing payments to municipalities and counties throughout state totaled \$18.7 million in 2018, and school districts received \$1.6 million in 2018.

The Weld County Assessor has pointed out previously to members of the legislature that under the Gallagher Amendment calculation of the residential tax rate without the new oil and gas production in Weld County, the residential rate is predicted to drop from 7.2% to 6.1% and would result in an assessment ratio of 6.56%. Governments across the state, not just Weld County, would lose 9% of their revenue because of the decline in production in Weld County.

Another significant state revenue that would be jeopardized or reduced is the oil and gas revenues from oil and gas leases from the Colorado Land Trust. Between 2008-2018 the Colorado Land Trust raised over **\$1 billion** for Colorado public schools from oil and gas leases on trust lands.



**Senate Bill 181: The Statewide Cost of Prohibitions, Restrictions and  
Regulatory Uncertainty in Colorado's Energy Sector**

**KEY FINDINGS:**

- Despite the stated intentions of the sponsors of SB 181, the provisions of the bill would allow for any number of new rules at both the state and local level that significantly reduce the size of the oil and gas industry in Colorado.
- The fiscal note accompanying the bill states that Senate Bill 181 authorizes restrictions up to and including, "an outright prohibition of oil and gas development."
- The current language of the bill also removes the requirement that technical feasibility and cost-effectiveness be used as part of the criteria for future permitting decisions and regulations over oil and natural gas.
- The bill grants exclusive authority to the Director of the COGCC to refuse any permit that he or she flags for additional review. COGCC has released 19 broad criteria for flagging permits for further review that includes a proposed well in a municipality, within 2,500 ft of a municipality or county line; in a location added by the governor's office; in a location that attracts comments from environmental groups; or any permit otherwise considered "hairy, sticky or likely to stand out."
- Given the uncertainty surrounding the bill, in hours of committee testimony concerned Coloradans questioned the economic risk. To estimate the impacts of different possible outcomes, including a worst case 100% reduction in new production, several scenarios were run to quantify the dynamic fiscal and economic impacts. Here are summary results for just 2 of the 7 scenarios included in the report.
  - If SB-181 shuts down 50% of new oil and gas production the impacts by 2030 include:
    - 120,000 fewer jobs across all sectors
    - Over \$8 billion in lost state and local tax revenue from 2020 through 2030
    - Over \$158 billion in lost GDP from 2020 through 2030
  - If SB-181 shuts down 100% of new oil and gas production the impacts by 2030 include:
    - 185,000 fewer jobs across all sectors
    - Over \$13.5 billion in lost state and local tax revenue from 2020 through 2030
    - Over \$257 billion in lost GDP from 2020 through 2030

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