

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 18-1169.01 Thomas Morris x4218

SENATE BILL 18-230

SENATE SPONSORSHIP

Marble,

HOUSE SPONSORSHIP

Saine,

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATION OF THE LAWS GOVERNING THE**
102 **ESTABLISHMENT OF DRILLING UNITS FOR OIL AND GAS WELLS,**
103 **AND, IN CONNECTION THEREWITH, CLARIFYING THAT A**
104 **DRILLING UNIT MAY INCLUDE MORE THAN ONE WELL,**
105 **PROVIDING LIMITED IMMUNITY TO NONCONSENTING OWNERS**
106 **SUBJECT TO POOLING ORDERS, ADJUSTING COST RECOVERY**
107 **FROM NONCONSENTING OWNERS, AND MODIFYING THE**
108 **CONDITIONS UPON WHICH A POOLING ORDER MAY BE ENTERED.**

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
April 23, 2018

<http://leg.colorado.gov>.)

Current law authorizes "forced" or "statutory" pooling, a process by which any interested person—typically an oil and gas operator—may apply to the Colorado oil and gas conservation commission (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 commission can adopt an order to require an owner of oil and gas resources within the drilling unit who has not consented to the application (nonconsenting owner) 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 clarifies that an order entered by the commission establishing a drilling unit may authorize more than one well. The order must specify that a nonconsenting owner is immune from liability for costs arising from spills, releases, damage, or injury resulting from oil and gas operations on the drilling unit.

Currently, a nonconsenting owner must pay the consenting owners from the nonconsenting owner's share of production 200% of the nonconsenting owner's proportionate share of the costs of drilling, including equipment. The bill limits this 200% cost recovery to wells 5,000 feet or less in depth and increases the cost recovery to 300% for wells greater than 5,000 feet in depth and for horizontal wells.

Current law prohibits entry of a pooling order until the mineral rights owners have been given a reasonable offer to lease their rights. The bill specifies that the offer must be given at least 60 days before the hearing on the order and must include a copy of or link to a brochure supplied by the commission that clearly and concisely describes the pooling procedures and the mineral owner's options pursuant to those procedures.

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 (1), (3), (7), and (8) as follows:

4 **34-60-116. Drilling units - pooling interests.** (1) To prevent or
5 to assist in preventing waste, to avoid the drilling of unnecessary wells,
6 or to protect correlative rights, the commission, upon its own motion or
7 on a proper application of an interested party, but after notice and hearing
8 as provided in this section, ~~has the power to~~ MAY establish ONE OR MORE

1 drilling units of specified ~~and approximately~~ uniform size and shape
2 covering any pool OR PORTION OF A POOL.

3 (3) The order establishing ~~drilling units shall permit only one well~~
4 A DRILLING UNIT MAY AUTHORIZE ONE OR MORE WELLS to be drilled and
5 produced from the common source of supply on a drilling unit. ~~and shall~~
6 ~~specify the location of the permitted well thereon, with such exception for~~
7 ~~the location of the permitted well as may be reasonably necessary for~~
8 ~~wells already drilled or where it is shown upon application, notice, and~~
9 ~~hearing, and the commission finds, that the drilling unit is located partly~~
10 ~~outside the pool or field and adjacent to a producing unit, or, for some~~
11 ~~other reason, the requirement to drill the well at the authorized location~~
12 ~~on the unit would be inequitable or unreasonable. The commission shall~~
13 ~~take such action as will offset any advantage which the person securing~~
14 ~~the exception may have over other producers by reason of the drilling of~~
15 ~~the well as an exception, and include in the order suitable provisions to~~
16 ~~prevent the production from the drilling unit of more than its just and~~
17 ~~equitable share of the oil and gas in the pool.~~

18 (7) (a) Each such pooling order shall MUST:

19 (I) Make provision for the drilling of ~~a well~~ ONE OR MORE WELLS
20 on the drilling unit, if not already drilled, for the operation ~~thereof~~ OF THE
21 WELLS, and for the payment of the reasonable actual cost ~~thereof~~ OF THE
22 WELLS, including a reasonable charge for supervision and storage. Except
23 as provided in ~~paragraph (c) of this subsection~~ (7) (7)(c) OF THIS SECTION,
24 as to each nonconsenting owner who refuses to agree to bear ~~his~~ A
25 proportionate share of the costs and risks of drilling and operating the
26 ~~well~~ WELLS, the order shall MUST provide for reimbursement to the
27 consenting owners who pay for the drilling and operation of the well THE

1 COSTS of the nonconsenting owner's PROPORTIONATE share of the costs
2 and risks of ~~such drilling and operating~~ out of, and only out of, production
3 from the unit representing ~~his~~ THE OWNER'S interest, excluding royalty or
4 other interest not obligated to pay any part of the cost thereof, IF AND TO
5 THE EXTENT THAT THE ROYALTY IS CONSISTENT WITH THE LEASE TERMS
6 PREVAILING IN THE AREA AND IS NOT DESIGNED TO AVOID THE RECOVERY
7 OF COSTS PROVIDED FOR IN SUBSECTION (7)(b) OF THIS SECTION. In the
8 event of any dispute as to ~~such~~ THE costs, the commission shall determine
9 the proper costs as specified in ~~paragraph (b) of this subsection (7). The~~
10 ~~order shall~~ SUBSECTION (7)(b) OF THIS SECTION.

11 (II) Determine the interest of each owner in the unit and ~~shall~~
12 provide that each consenting owner is entitled to receive, subject to
13 royalty or similar obligations, the share of the production ~~of the well~~
14 FROM THE WELLS applicable to ~~his~~ THE OWNER'S interest in the ~~drilling~~
15 ~~unit~~ WELLS and, unless ~~he~~ THE OWNER has agreed otherwise, ~~his~~ A
16 proportionate part of the nonconsenting owner's share of ~~such~~ THE
17 production until costs are recovered and that each nonconsenting owner
18 is entitled to own and to receive the share of the production applicable to
19 ~~his~~ THE OWNER'S interest in the unit after the consenting owners have
20 recovered the nonconsenting owner's share OF THE COSTS out of
21 production; AND

22 (III) SPECIFY THAT A NONCONSENTING OWNER IS IMMUNE FROM
23 LIABILITY FOR COSTS ARISING FROM SPILLS, RELEASES, DAMAGE, OR
24 INJURY RESULTING FROM OIL AND GAS OPERATIONS ON THE DRILLING UNIT.

25 (b) Upon the determination of the commission, proper costs
26 recovered by the consenting owners of a drilling unit from the
27 nonconsenting owner's share of production from such a unit shall be as

1 follows:

2 (I) One hundred percent of the nonconsenting owner's share of the
3 cost of surface equipment beyond the wellhead connections, including ~~but~~
4 ~~not limited to~~, stock tanks, separators, treaters, pumping equipment, and
5 piping, plus one hundred percent of the nonconsenting owner's share of
6 the cost of operation of the well OR WELLS commencing with first
7 production and continuing until the consenting owners have recovered
8 such costs. It is the intent that the nonconsenting owner's share of these
9 costs of equipment and operation will be that interest ~~which~~ THAT would
10 have been chargeable to the nonconsenting owner had ~~he~~ THE OWNER
11 initially agreed to pay ~~his~~ THE OWNER'S share of the costs of the well OR
12 WELLS from the beginning of the operation.

13 (II) FOR WELLS FIVE THOUSAND FEET OR LESS IN MEASURED DEPTH
14 THAT ARE NOT HORIZONTAL WELLS, two hundred percent of that portion
15 of the costs and expenses of staking, well site preparation, obtaining
16 rights-of-way, rigging up, drilling, reworking, deepening or plugging
17 back, testing, and completing the well, after deducting any cash
18 contributions received by the consenting owners, and two hundred
19 percent of that portion of the cost of equipment in the well, including the
20 wellhead connections. FOR WELLS GREATER THAN FIVE THOUSAND FEET
21 IN MEASURED DEPTH AND FOR HORIZONTAL WELLS, THE COST RECOVERY
22 PERCENTAGE APPLICABLE TO THE EXPENSE IS THREE HUNDRED PERCENT.

23 (c) A nonconsenting owner of a tract in a drilling unit ~~which~~ THAT
24 is not subject to any lease or other contract for the development thereof
25 for oil and gas shall be deemed to have a landowner's proportionate
26 royalty of ~~twelve and one-half~~ FIFTEEN percent until such time as the
27 consenting owners recover, only out of the nonconsenting owner's

1 proportionate ~~seven-eighths~~ EIGHTY-FIVE PERCENT share of production,
2 the costs specified in ~~paragraph (b) of this subsection (7)~~ (7)(b) OF THIS
3 SECTION. After recovery of ~~such~~ THE costs, the nonconsenting owner ~~shall~~
4 then ~~own~~ OWNS his OR HER FULL proportionate ~~eight-eighths~~ share of the
5 ~~well~~ WELLS, surface facilities, and production and then ~~be~~ IS liable for
6 further costs as if ~~he~~ THE OWNER had originally agreed to drilling of the
7 ~~well~~ WELLS.

8 (d) (I) ~~No~~ AN order pooling an unleased nonconsenting mineral
9 owner shall NOT be entered by the commission under ~~the provisions of~~
10 subsection (6) of this section over protest of ~~such~~ THE owner ~~until~~ UNLESS
11 the commission ~~shall have~~ HAS received evidence that ~~such~~ THE unleased
12 mineral owner ~~shall have~~ HAS been tendered, NO LESS THAN SIXTY DAYS
13 BEFORE THE HEARING, a reasonable offer to lease upon terms no less
14 favorable than those currently prevailing in the area at the time
15 application for ~~such~~ THE order is made and that such unleased mineral
16 owner ~~shall have~~ HAS been furnished in writing ~~such~~ THE owner's share
17 of the estimated drilling and completion cost of the ~~well~~ WELLS, the
18 location and objective depth of the ~~well~~ WELLS, and the estimated spud
19 date for the ~~well~~ WELLS or range of time within which spudding is to
20 occur. THE OFFER MUST INCLUDE A COPY OF OR LINK TO A BROCHURE
21 SUPPLIED BY THE COMMISSION THAT CLEARLY AND CONCISELY DESCRIBES
22 THE POOLING PROCEDURES SPECIFIED IN THIS SECTION AND THE MINERAL
23 OWNER'S OPTIONS PURSUANT TO THOSE PROCEDURES.

24 (II) During the period of cost recovery provided in this subsection
25 (7), the commission ~~shall retain~~ RETAINS jurisdiction to determine the
26 reasonableness of costs of operation of the ~~well~~ WELLS attributable to the
27 interest of ~~such~~ THE nonconsenting owner.

1 (8) The operator of ~~a well~~ WELLS under a pooling order in which
2 there is a nonconsenting owner shall furnish the nonconsenting owner
3 with a monthly statement of all costs incurred, together with the quantity
4 of oil or gas produced, and the amount of proceeds realized from the sale
5 of production during the preceding month. If the consenting owners
6 recover the costs specified in subsection (7) of this section, the
7 nonconsenting owner shall own the same interest in the ~~well~~ WELLS and
8 the production therefrom, and be liable for the further costs of the
9 operation, as if ~~he~~ THE OWNER had participated in the initial drilling
10 ~~operation~~ OPERATIONS.

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

21 (2) This act applies to conduct occurring on or after the applicable
22 effective date of this act.