

CHAPTER 307

NATURAL RESOURCES

HOUSE BILL 03-1323

BY REPRESENTATIVE(S) Mitchell, Brophy, Butcher, Garcia, Hoppe, Miller, Stafford, and Wiens;
also SENATOR(S) Hagedorn.

AN ACT

**CONCERNING THE COORDINATION OF THE PERMITTING BY ALL LEVELS OF GOVERNMENT OF NATURAL
RESOURCE DEVELOPMENT PROJECTS.**

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

SECTION 1. Article 33 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 3
COLORADO COORDINATION COUNCIL**

24-33-301. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) THE CONTINUED BENEFICIAL DEVELOPMENT OF COLORADO'S NATURAL RESOURCES IS IMPORTANT TO THE PEOPLE OF THIS STATE;

(b) THE MANY GOVERNMENTAL REQUIREMENTS AND APPROVALS THAT MUST BE COMPLIED WITH AND OBTAINED BY THE SPONSOR OF A NATURAL RESOURCES DEVELOPMENT PROJECT CAN CAUSE CONFUSION AND DELAY;

(c) THE JURISDICTIONAL INTEGRITY OF EACH ENTITY OF LOCAL, STATE, AND FEDERAL GOVERNMENT MUST BE MAINTAINED; AND

(d) AN AGENCY OF THE STATE GOVERNMENT, THE FUNCTION OF WHICH WOULD BE TO COORDINATE RELATIONS BETWEEN SPONSORS OF NATURAL RESOURCE DEVELOPMENT PROJECTS, THE PUBLIC, AND LOCAL, STATE, AND FEDERAL GOVERNMENTAL ENTITIES, WOULD MAKE THE PERMITTING PROCESS MORE EFFICIENT AND, THEREFORE, OFFER A BENEFIT TO THE PEOPLE OF COLORADO.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) THE GENERAL ASSEMBLY HEREBY DETERMINES AND DECLARES THAT THE COLORADO COORDINATION COUNCIL ESTABLISHED BY THIS PART 3 SHOULD BE THE STATE AGENCY RESPONSIBLE FOR EXPEDITIOUSLY ASSURING MAXIMUM PUBLIC, GOVERNMENTAL, AND SPONSOR INPUT WITH:

(a) REDUCED COSTS FOR STATE AND LOCAL GOVERNMENTAL ENTITIES AND PROJECT SPONSORS; AND

(b) MINIMUM DELAY FOR SPONSORS OF QUALIFYING PROJECTS THAT COMPLY WITH THE TERMS AND CONDITIONS OF PARTICIPATING LOCAL, STATE, AND GOVERNMENTAL ENTITIES.

24-33-302. Colorado coordination council - created. (1) THERE IS HEREBY CREATED IN THE OFFICE OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES THE COLORADO COORDINATION COUNCIL, REFERRED TO IN THIS PART 3 AS THE COUNCIL.

(2) THE COUNCIL SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS SPECIFIED IN THIS PART 3 UNDER THE DEPARTMENT OF NATURAL RESOURCES AND ITS EXECUTIVE DIRECTOR AS IF THE COUNCIL WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER AS SUCH TRANSFER IS DEFINED IN SECTION 24-1-105.

(3) THE COLORADO JOINT REVIEW PROCESS CREATED BY ARTICLE 10 OF TITLE 34, C.R.S., PRIOR TO ITS REPEAL, IS TRANSFERRED TO THE COUNCIL BY A **TYPE 3** TRANSFER.

24-33-303. Colorado coordination council - duties - cash fund. (1) SPONSORS OF NATURAL RESOURCE DEVELOPMENT PROJECTS, INCLUDING, WITHOUT LIMITATION, PROJECTS THAT HAVE AS THEIR PURPOSE THE EXTRACTION, USE, CONVERSION, TRANSPORTATION, OR MANAGEMENT OF NATURAL RESOURCES AND THAT REQUIRE PERMITS OR APPROVALS FROM LOCAL, STATE, OR FEDERAL GOVERNMENTAL ENTITIES OR THAT REQUIRE COMPLIANCE WITH A JURISDICTIONAL REQUIREMENT OF LOCAL, STATE, OR FEDERAL GOVERNMENT, MAY ELECT TO UTILIZE THE COORDINATION PROCESS AUTHORIZED BY THIS PART 3. NO PROJECT SPONSOR SHALL BE COMPELLED TO UTILIZE THE PROCESS AUTHORIZED BY THIS PART 3.

(2) UPON RECEIPT OF A WRITTEN REQUEST FROM A PROJECT SPONSOR, THE COUNCIL SHALL INITIATE PROJECT COORDINATION PROCEDURES THAT RESULT IN A COMMITMENT BY THE SPONSOR TO PAY FOR THE SPECIFIED COSTS OF THE GOVERNMENTAL PARTICIPANTS. AFTER SUBMISSION OF ITS REQUEST BUT BEFORE BEGINNING PROJECT COORDINATION PROCEDURES, THE SPONSOR SHALL PAY TO THE COUNCIL A FILING FEE IN AN AMOUNT DETERMINED BY THE COUNCIL TO COVER ITS DIRECT AND INDIRECT COSTS IN PROVIDING PROJECT COORDINATION PROCEDURES. THE COUNCIL SHALL ESTABLISH AND PUBLISH HOURLY RATES FOR COORDINATION CHARGES PERFORMED BY THE COUNCIL IN CONNECTION WITH APPLICATIONS FILED UNDER THIS ARTICLE. WITHIN THIRTY DAYS AFTER THE FINAL APPROVAL OR DENIAL OF A PROJECT, THE COUNCIL SHALL BILL THE SPONSOR FOR THE COUNCIL'S DIRECT AND INDIRECT COSTS IN ACCORDANCE WITH THE HOURLY RATE STRUCTURE ESTABLISHED PURSUANT TO THIS SUBSECTION (2). THE COUNCIL'S CHARGES SHALL BE BILLED AGAINST THE FILING FEE PAID PURSUANT TO THIS SUBSECTION (2), BUT SUCH CHARGES

SHALL NOT EXCEED THE AMOUNT OF THE FILING FEE. IF THE COUNCIL BILLS CHARGES IN AN AMOUNT LESS THAN THE FILING FEE, THE COUNCIL SHALL RETURN ANY UNUSED BALANCE TO THE SPONSOR AFTER THE FINAL DETERMINATION IN THE MATTER HAS BEEN MADE. THE COUNCIL SHALL TRANSMIT SUCH FEE TO THE STATE TREASURER, WHO SHALL DEPOSIT IT IN THE COORDINATION COUNCIL CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. ALL MONEYS CREDITED TO THE FUND AND UNEXPENDED AT THE END OF ANY GIVEN FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND. MONEYS IN THE FUND SHALL BE APPROPRIATED SOLELY TO THE COUNCIL TO PAY FOR ITS COSTS IN PROVIDING PROJECT COORDINATION PROCEDURES. PROJECT COORDINATION PROCEDURES SHALL REQUIRE THE SPONSOR TO PERFORM AT LEAST THE FOLLOWING ACTIVITIES:

(a) FILE WITH THE COUNCIL A PROJECT STATEMENT CONTAINING ACCURATE INFORMATION RELATING TO THE NATURE, LOCATION, SIZE, AND DURATION OF THE PROJECT;

(b) FILE WITH THE COUNCIL A LIST CONTAINING THE NAMES AND ADDRESSES OF ALL LOCAL, STATE, AND FEDERAL GOVERNMENTAL ENTITIES THAT THE SPONSOR REASONABLY EXPECTS TO BE INVOLVED IN A PROCESS REQUIRING PUBLIC INPUT WITH REGARD TO THE PROJECT; AND

(c) SERVE THE PROJECT STATEMENT UPON EACH LOCAL, STATE, AND FEDERAL GOVERNMENTAL ENTITY CONTAINED IN THE LIST FILED WITH THE COUNCIL.

(3) UPON COMPLETION OF THE PROCEDURES REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COUNCIL SHALL:

(a) ESTABLISH TO THE EXTENT POSSIBLE A LIST OF ALL APPLICABLE REQUIREMENTS IDENTIFIED BY THE SPONSOR THAT WILL BE THE SUBJECT OF THE AGREEMENT BETWEEN THE SPONSOR AND THE COUNCIL;

(b) ESTABLISH A TIMETABLE FOR COMPLETION OF THE PUBLIC INPUT, PERMIT COMPLIANCE, AND APPROVAL REQUIREMENTS IN COORDINATION WITH THE GOVERNMENTAL ENTITIES INVOLVED;

(c) ORGANIZE AND MANAGE MEETINGS INVOLVING THE SPONSOR AND ALL INVOLVED GOVERNMENTAL ENTITIES; AND

(d) TAKE ANY OTHER ACTION THAT WILL FACILITATE THE TIMELY APPROVAL OR DENIAL OF PERMITS, APPROVALS, OR LICENSES REQUIRED OF THE SPONSOR FOR THE COMMENCEMENT OF THE PROJECT.

(4) FAILURE OF THE SPONSOR TO UTILIZE THE PROCESS ESTABLISHED IN THIS SECTION SHALL NOT BE GROUNDS OR RATIONALE FOR THE DENIAL OR CONDITIONING OF ANY PERMIT, LICENSE, APPROVAL, OR OTHER ACTION REQUESTED BY THE SPONSOR FROM ANY GOVERNMENTAL ENTITY INVOLVED IN THE PERMITTING OR LICENSING PROCESS.

(5) NOTHING IN THIS PART 3 SHALL CONFER ANY ADDITIONAL POWERS OR JURISDICTION UPON ANY PARTICIPATING GOVERNMENTAL ENTITY.

24-33-304. Repeal of article. (1) THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2013.

(2) PRIOR TO SUCH REPEAL, THE COUNCIL SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104.

SECTION 2. 24-1-124 (2.1) (b), Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

24-1-124. Department of natural resources - creation - divisions - repeal.

(2.1) The department of natural resources shall include, as a part of the office of the executive director:

(b) THE COLORADO COORDINATION COUNCIL, CREATED BY PART 3 OF ARTICLE 33 OF THIS TITLE. THE COLORADO COORDINATION COUNCIL SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS PRESCRIBED BY LAW AS IF THE SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF NATURAL RESOURCES AND ALLOCATED TO THE OFFICE OF THE EXECUTIVE DIRECTOR.

SECTION 3. 24-34-104 (44), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (44) The following agencies, functions, or both, shall terminate on July 1, 2013:

(c) THE COLORADO COORDINATION COUNCIL WITHIN THE OFFICE OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES CREATED IN PART 3 OF ARTICLE 33 OF THIS TITLE.

SECTION 4. Repeal. 24-1-124 (3) (e) (V), Colorado Revised Statutes, is repealed as follows:

24-1-124. Department of natural resources - creation - divisions - repeal.

(3) The department of natural resources shall consist of the following divisions:

(e) The division of minerals and geology, created by section 34-20-103, C.R.S., the head of which shall be the director of the division of minerals and geology, under the supervision of the executive director of the department of natural resources. Said division and director shall exercise their powers, duties, and functions as prescribed by law under the department of natural resources and the executive director thereof as if the same were transferred to the department by a **type 2** transfer. The division of minerals and geology shall include the following:

~~(V) The Colorado joint review process, created by article 10 of title 34, C.R.S. The Colorado joint review process shall exercise its powers and perform its duties and functions as prescribed by law as if the same were transferred by a **type 2** transfer to the department of natural resources and allocated to the division of minerals and geology as a section thereof.~~

SECTION 5. Repeal. 24-33-104 (1) (d) (VII), Colorado Revised Statutes, is

repealed as follows:

24-33-104. Divisions under the department. (1) The department of natural resources shall consist of the following divisions:

(d) The division of minerals and geology, the head of which shall be the director of the division of minerals and geology. The director of the division shall also serve as the head of the office of active and inactive mines or the office of mined land reclamation. The director of the division shall have professional and supervisory experience in mining, reclamation, oil and gas, geology, or natural resource planning and management and shall have a college degree from an accredited college or university in mining engineering, petroleum engineering, geological engineering, geology, or related natural/physical sciences, or mineral economics. The division shall consist of the following sections:

(VII) ~~The Colorado joint review process.~~

SECTION 6. Repeal. 24-34-104 (25.1) (b), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(b) ~~The project coordination procedures of the Colorado joint review process within the office of the executive director of the department of natural resources set forth in article 10 of title 34, C.R.S.;~~

SECTION 7. 34-20-103 (2), Colorado Revised Statutes, is amended to read:

34-20-103. Division of minerals and geology - creation - powers and duties - transfer of functions and property - change of statutory references. (2) The division shall consist of the office of active and inactive mines, created in article 21 of this title, the coal mine board of examiners, created in article 22 of this title, AND the office of mined land reclamation and the mined land reclamation board, created in article 32 of this title. ~~and the Colorado joint review process, created in article 10 of this title.~~

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 22, 2003