

## CHAPTER 65

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**NATURAL RESOURCES**


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**SENATE BILL 06-140**

BY SENATOR(S) Taylor, and Isgar;  
also REPRESENTATIVE(S) White, Berens, Boyd, Gardner, Hall, Hoppe, Knoedler, Rose, and Sullivan.

**AN ACT**

**CONCERNING CHANGING THE NAME OF THE DIVISION OF MINERALS AND GEOLOGY TO THE COLORADO DIVISION OF RECLAMATION, MINING, AND SAFETY.**

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

**SECTION 1.** 24-1-124 (3) (e), Colorado Revised Statutes, is amended to read:

**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~~ RECLAMATION, MINING, AND SAFETY, created by section 34-20-103, C.R.S., the head of which shall be the director of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY, 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~~ RECLAMATION, MINING, AND SAFETY shall include the following:

(I) The coal mine board of examiners, created by article 22 of title 34, C.R.S. Its powers, duties, and functions are transferred by a **type 2** transfer to the department of natural resources as a section of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY.

(II) The mined land reclamation board and the office of mined land reclamation, created by article 32 of title 34, C.R.S. The mined land reclamation board and its powers, duties, and functions are transferred by a **type 1** transfer to the department of natural resources and allocated to the division of ~~minerals and geology~~

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

RECLAMATION, MINING, AND SAFETY. The office of mined land reclamation shall exercise its powers, duties, and functions as if the same were transferred to the department of natural resources and allocated to the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY as a section thereof by a **type 2** transfer.

(III) The office of active and inactive mines, created by article 21 of title 34, C.R.S. Said office shall exercise its powers, duties, and functions as prescribed by law under the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY as if the same were transferred to the department of natural resources and allocated to the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY as a section thereof by a **type 2** transfer.

(IV) (Deleted by amendment, L. 2005, p. 1462, § 1, effective July 1, 2005.)

(V) Repealed.

**SECTION 2.** The introductory portion to 24-33-104 (1) (d), Colorado Revised Statutes, is amended to read:

**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~~ RECLAMATION, MINING, AND SAFETY, the head of which shall be the director of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY. 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:

**SECTION 3.** 18-12-109 (3) (c), Colorado Revised Statutes, is amended to read:

**18-12-109. Possession, use, or removal of explosives or incendiary devices - possession of components thereof - chemical, biological, and nuclear weapons - persons exempt - hoaxes.** (3) Subsection (2) of this section shall not apply to the following persons:

(c) An authorized employee of the office of active and inactive mines in the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY while acting within the scope of his OR HER employment;

**SECTION 4.** 24-65.1-302 (2) (d), Colorado Revised Statutes, is amended to read:

**24-65.1-302. Functions of other state agencies.** (2) Primary responsibility for the recommendation and provision of technical assistance functions described in subsection (1) of this section is upon:

(d) The division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY, with regard to mineral extraction and the reclamation of land disturbed thereby;

**SECTION 5.** 25-9-110 (2) (b), Colorado Revised Statutes, is amended to read:

**25-9-110. Violations - penalty.** (2) (b) Notwithstanding ~~the provisions of~~ paragraph (a) of this subsection (2), a sedimentary pond maintained in accordance with a permit issued by the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY that does not require a permit issued by the water quality control division of the department of public health and environment shall not require the supervision of a certified operator.

**SECTION 6.** 34-1-103 (6), Colorado Revised Statutes, is amended to read:

**34-1-103. Objectives of survey - duties of state geologist.** (6) The state geological survey shall prepare an annual report describing the status of the mineral industry and describing current influences affecting the growth and viability of the mineral industry in the state, and setting forth recommendations to foster the industry. This report and recommendations shall be submitted to the EXECUTIVE director of ~~minerals and geology~~ THE DEPARTMENT OF NATURAL RESOURCES.

**SECTION 7.** 34-20-102 (2), (7), and (8), Colorado Revised Statutes, are amended to read:

**34-20-102. Definitions.** As used in articles 20 to 25 of this title, unless the context otherwise requires:

(2) "Authorized representative" means a person employed by the division of ~~minerals and geology~~ ~~who is~~ AND authorized by the director of ~~the division of~~ ~~minerals and geology~~ to conduct safety and health studies, equipment surveys, tests, and technical assistance visits and to perform other duties assigned by the director.

(7) "Director" means the director of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY in the department of natural resources.

(8) "Division" means the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY in the department of natural resources.

**SECTION 8.** 34-20-103 (1), (3), (4), (5), (6), and (7) and the introductory portion to 34-20-103 (8), Colorado Revised Statutes, are amended to read:

**34-20-103. Division of reclamation, mining, and safety - creation - powers and duties - transfer of functions and property - change of statutory references.** (1) There is hereby created the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY in the department of natural resources. Pursuant to section 13 of article XII of the state constitution, the executive director of the department of natural resources shall appoint the director of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY, and the director shall appoint such employees as are necessary to carry out the duties and exercise the powers conferred by law upon the division and the director. Appointing authority for such employees may be delegated by the director to the heads of the offices in

the division as appropriate.

(3) The division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY shall be responsible for the administration of articles 20 to 25, ~~and~~ 32, and 33 of this title through the office of active and inactive mines and the office of mined land reclamation.

(4) (a) ~~The division shall, on and after July 1, 1992, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the division of mines and the division of mined land reclamation prior to July 1, 1992, concerning the duties and functions transferred to the division of minerals and geology and allocated to the office of active and inactive mines and the office of mined land reclamation. On July 1, 1992, all employees of the division of mines and the division of mined land reclamation whose principal duties are concerned with the duties and functions transferred to the office of active and inactive mines and the office of mined land reclamation in the division of minerals and geology and whose employment in said offices in the division of minerals and geology is deemed necessary by the executive director of the department to carry out the purposes of this article shall be transferred to the division of minerals and geology and shall become employees thereof. Such employees shall retain all rights to the state personnel system and retirement benefits under the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and rules and regulations.~~

(b) ~~On July 1, 1992, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the division of mines and the division of mined land reclamation pertaining to the duties and functions transferred to the office of active and inactive mines and the office of mined land reclamation in the division of minerals and geology pursuant to section 24-1-124 (3) (e), C.R.S., are transferred to the division of minerals and geology and shall become the property thereof. To the maximum extent possible, the director shall direct the use of existing stocks of printed forms, papers, and materials in all agencies affected by this section.~~

(c) ~~Whenever the division of mines and the division of mined land reclamation are referred to or designated by any contract or other document in connection with the duties and functions transferred to the office of active and inactive mines and the office of mined land reclamation in the division of minerals and geology, such reference or designation shall be deemed to apply to said offices in the division of minerals and geology. All contracts entered into by the division of mines or the division of mined land reclamation prior to July 1, 1992, in connection with the duties and functions transferred to the office of active and inactive mines and the office of mined land reclamation in the division of minerals and geology are hereby validated, with the said offices in the division of minerals and geology succeeding to all the rights and obligations of such contracts. Any cash funds, custodial funds, trusts, grants, and any appropriations of funds from prior fiscal years open to satisfy obligations incurred under such contracts are hereby transferred and appropriated to the office of active and inactive mines and the office of mined land reclamation in the division of minerals and geology for the payment of such obligations.~~

(5) ~~On and after July 1, 1992, when any provision of this title refers to the division of mines or the division of mined land reclamation, said law shall be construed as referring to the division of minerals and geology, the office of active and inactive mines, or the office of mined land reclamation.~~

(6) ~~The revisor of statutes is authorized to change all references in the Colorado Revised Statutes to the division of mines and the division of mined land reclamation to the division of minerals and geology, the office of active and inactive mines, or the office of mined land reclamation, as appropriate.~~

(7) The director of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY shall prepare and submit to the executive director of the department of natural resources a plan for encouraging the development of minerals in the state. Such plan shall be formulated based upon the annual report and recommendations of the Colorado geological survey, the minerals, energy, and geology policy advisory board, and the other divisions in the department.

(8) The director of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY shall:

**SECTION 9.** 34-20-104 (1), Colorado Revised Statutes, is amended to read:

**34-20-104. Minerals, energy, and geology policy advisory board - creation.**

(1) There is hereby created in the department of natural resources the minerals, energy, and geology policy advisory board. The advisory board shall consist of seventeen members appointed by the governor as follows: A board member of the mined land reclamation board; a board member of the oil and gas conservation commission; a member of the Colorado geological survey advisory committee; one member of the coal mine board of examiners; the executive director of the department of natural resources, or the designee of such executive director; four representatives of the oil and gas industry, at least one of whom shall be a practicing professional geologist; four representatives of the mining industry, at least one of whom shall be a practicing professional geologist; and four members at large representing local government, the environmental community, and institutions of higher education, and a practicing professional geologist who shall be from the field of hydrogeology, engineering geology, or environmental geology. The method of selecting said industry representatives shall be accomplished in the following manner: The governor shall solicit qualified candidates from recognized trade associations and qualified individuals in the referenced industries. The governor shall appoint the industry representatives to serve on the board from each list so developed. The ex officio nonvoting members of the board shall include: The director of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY, the heads of the office of active and inactive mines, the office of mined land reclamation, the state geologist, and the director of the oil and gas conservation commission. The board shall elect its chair from the membership of the board on an annual basis, who shall not be an employee of the state of Colorado. To the extent practicable, at least five members of the advisory board shall be residents of Colorado west of the continental divide.

**SECTION 10.** The introductory portion to 34-21-101 (1), Colorado Revised Statutes, is amended to read:

**34-21-101. Office of active and inactive mines - creation - duties.** (1) There is hereby created in the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY in the department of natural resources the office of active and inactive mines, the head of which shall be appointed by the director of the division. The office shall have the following duties:

**SECTION 11.** 34-32-103 (4.5) and (4.7), Colorado Revised Statutes, are amended to read:

**34-32-103. Definitions.** As used in this article, unless the context otherwise requires:

(4.5) "Director" means the director of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY or such officer as may lawfully succeed to the powers and duties of such director.

(4.7) "Division" means the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY or such agency as may lawfully succeed to the powers and duties of such division.

**SECTION 12.** 34-32-105 (1), Colorado Revised Statutes, is amended to read:

**34-32-105. Office of mined land reclamation - mined land reclamation board - created.** (1) There is hereby created, in the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY in the department of natural resources, the office of mined land reclamation and, in the department of natural resources, the mined land reclamation board. The head of the office of mined land reclamation shall be appointed by the director. The head of the office of mined land reclamation shall have professional and supervisory experience in mined land reclamation, mining, or natural resource planning and management.

**SECTION 13.** 34-32.5-103 (6) and (7), Colorado Revised Statutes, are amended to read:

**34-32.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(6) "Director" means the director of the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY.

(7) "Division" means the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY created in section 34-20-103.

**SECTION 14.** 34-33-103 (1) and (7), Colorado Revised Statutes, are amended to read:

**34-33-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Administrator" means the head of the office of mined land reclamation in the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY in the

department of natural resources.

(7) "Division" means the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY in the department of natural resources.

**SECTION 15.** 34-34-101 (3), Colorado Revised Statutes, is amended to read:

**34-34-101. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Division" means the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY or such agency as may lawfully succeed to the powers and duties of such division.

**SECTION 16.** 34-60-106 (17) (e), Colorado Revised Statutes, is amended to read:

**34-60-106. Additional powers of the commission.** (17) (e) The director may consult with other state agencies possessing expertise in matters related to closure of underground natural gas storage caverns in the areas of the jurisdiction of such agencies, including, but not limited to, safety, environmental protection, public health, water resources, and geology. Agencies consulted under this subsection (17) may include, but are not limited to, the public utilities commission, the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY, the Colorado geological survey, the division of water resources, and the department of public health and environment. Any agency consulted shall provide advice and assistance with respect to matters within its expertise.

**SECTION 17.** 39-29-109 (1) (a) (II) and (1) (c) (I) (C), Colorado Revised Statutes, are amended to read:

**39-29-109. Severance tax trust fund - created - administration - use of moneys - repeal.** (1) (a) There is hereby created in the office of the state treasurer the severance tax trust fund. The fund is to be perpetual and held in trust as a replacement for depleted natural resources and for the development and conservation of the state's water resources pursuant to sections 37-60-106 (1) (j) and (1) (l), 37-60-119, and 37-60-122, C.R.S., and for the use in funding programs that promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water. State severance tax receipts shall be credited to the severance tax trust fund as provided in section 39-29-108. All income derived from the deposit and investment of the moneys in the severance tax trust fund shall be credited to the severance tax trust fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. All moneys in the fund shall be subject to appropriation by the general assembly for the following purposes:

(II) The operational account. One-half of the severance tax receipts credited to the severance tax trust fund for tax years commencing on and after July 1, 1995, shall be credited to the operational account of the severance tax trust fund and used to fund programs established within the Colorado oil and gas conservation

commission, the Colorado geological survey, the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY, and the Colorado water conservation board that promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water, as set forth in paragraph (c) of this subsection (1).

(c) (I) For fiscal years commencing on and after July 1, 1997, the executive director of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from the operational account of the severance tax trust fund. The state minerals, energy, and geology policy advisory board established pursuant to section 34-20-104, C.R.S., shall review the executive director's recommendation before submittal. The general assembly may appropriate moneys from the total moneys available in the operational account of the severance tax trust fund to fund recommended programs as follows:

(C) For programs within the division of ~~minerals and geology~~ RECLAMATION, MINING, AND SAFETY, up to thirty percent of the moneys in the operational account. As part of such thirty percent, five hundred thousand dollars, or so much as may be available, shall be transferred to the abandoned mine reclamation fund created in section 34-34-102, C.R.S.

**SECTION 18. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 9, 2006, if adjournment sine die is on May 10, 2006); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 31, 2006