

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0752.01 Brita Darling x2241

SENATE BILL 22-129

SENATE SPONSORSHIP

Cooke,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING THE PROCEDURES FOR PROPOSALS FILED IN
102 ANTICIPATION OF AN AIR QUALITY CONTROL COMMISSION
103 RULE-MAKING HEARING.

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>.)

The bill requires the air quality control commission (commission) to include in a notice of proposed rule-making a description of the classes of persons, including businesses, that will be affected by the proposed rule.

A person who proposes a rule differing from the rule proposed by

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.

the commission or a revision of limited applicability shall file the proposal by a deadline determined by the commission by rule, and must include a description of the classes of persons, including businesses, that will be affected by the proposal.

If the proposal is an alternative proposal, as defined by the commission by rule, the person must include with the proposal an initial economic impact analysis of the proposed rule.

The commission shall designate a hearing officer to consider proposals filed with the commission. Not later than 10 business days after the proposal is filed with the commission, the hearing officer shall determine if the proposal is an alternative proposal, warranting consideration by the commission. The hearing officer shall provide notice of its determination to persons that have filed written requests with the commission to receive notice.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-7-110, **amend** (1)
3 and (2) as follows:

4 **25-7-110. Commission - procedures to be followed in setting**
5 **standards and rules - rules.** (1) Prior to adopting, promulgating,
6 amending, or modifying any ambient air quality standard authorized in
7 section 25-7-108, or any emission control ~~regulation~~ RULE authorized in
8 section 25-7-109, or any other regulatory plans or programs authorized by
9 sections 25-7-105 (1)(c) or 25-7-106, the commission shall conduct a
10 public hearing ~~thereon~~ ON THE MATTER as provided in section 24-4-103.

11 ~~C.R.S.~~ TO COMPLY WITH THIS SECTION, notice of ~~any such~~ THE hearing
12 ~~shall~~ MUST:

13 (a) Conform to the requirements of section 24-4-103, ~~C.R.S., but~~
14 ~~such~~ BUT THE notice ~~shall~~ MUST be given at least sixty days prior to the
15 hearing and ~~shall~~ THE COMMISSION IS ENCOURAGED TO GIVE MORE THAN
16 SIXTY DAYS NOTICE PRIOR TO THE HEARING IF A LONGER PERIOD IS
17 WARRANTED;

1 (b) Include each proposed ~~regulation, and shall~~ RULE;

2 (c) Be mailed to all persons who have filed with the commission
3 a written request to receive ~~such notices~~ THE NOTICE; AND

4 (d) INCLUDE A DESCRIPTION OF THE CLASSES OF PERSONS,
5 INCLUDING BUSINESSES, THAT WILL BE AFFECTED BY THE PROPOSED RULE.

6 (2) (a) ~~Any person desiring~~ To propose a ~~regulation~~ RULE
7 differing from the ~~regulation~~ RULE proposed by the commission or to
8 propose a revision of limited applicability ~~pursuant to section 25-7-117,~~
9 to the commission's proposal ~~shall file such~~ PURSUANT TO SECTION
10 25-7-117, A PERSON MUST FILE THE other proposal with the commission
11 ~~not less than twenty days prior to the hearing, and, when on file, such~~
12 BEFORE THE RULE-MAKING HEARING BY A DEADLINE DETERMINED BY THE
13 COMMISSION BY RULE, BUT NOT LATER THAN THE DEADLINE ESTABLISHED
14 IN COMMISSION RULES FOR PARTY STATEMENTS FILED PURSUANT TO
15 SECTION 24-4-105 (2)(c). THE OTHER PROPOSAL MUST INCLUDE A
16 DESCRIPTION OF THE CLASSES OF PERSONS, INCLUDING BUSINESSES, THAT
17 WILL BE AFFECTED BY THE PROPOSAL AND MEET THE REQUIREMENTS OF
18 SUBSECTION (2)(b) OF THIS SECTION, AS APPLICABLE. ONCE FILED, THE
19 COMMISSION SHALL MAKE THE proposal ~~shall be~~ open for public
20 inspection.

21 (b) A PERSON PROPOSING A RULE DIFFERING FROM THE RULE
22 PROPOSED BY THE COMMISSION THAT IS CONSISTENT WITH THE
23 COMMISSION'S DEFINITION OF AN ALTERNATIVE PROPOSAL MUST INCLUDE
24 WITH THE FILING OF THE PROPOSAL A RULE-MAKING PACKET FOR THE
25 PROPOSAL THAT INCLUDES AN INITIAL ECONOMIC IMPACT ANALYSIS
26 PURSUANT TO SECTION 25-7-110.5 (4).

27 (c) THE COMMISSION SHALL DESIGNATE A HEARING OFFICER TO

1 CONSIDER PROPOSALS FILED PURSUANT TO SUBSECTION (2)(a) OF THIS
2 SECTION, PROVIDED THE PROPOSAL MEETS THE REQUIREMENTS OF
3 SUBSECTION (2)(a) OF THIS SECTION AND, AS APPLICABLE, SUBSECTION
4 (2)(b) OF THIS SECTION.

5 (d) (I) NOT LATER THAN TEN BUSINESS DAYS AFTER THE
6 SUBMISSION OF A PROPOSAL PURSUANT TO THIS SUBSECTION (2), THE
7 HEARING OFFICER SHALL DETERMINE WHETHER THE PROPOSAL IS AN
8 ALTERNATIVE PROPOSAL, AS DEFINED BY THE COMMISSION BY RULE. IF
9 THE HEARING OFFICER DETERMINES THAT A PROPOSAL IS AN ALTERNATIVE
10 PROPOSAL AND THAT THE ALTERNATIVE PROPOSAL COMPLIES WITH THE
11 REQUIREMENTS OF SUBSECTION (2)(b) OF THIS SECTION, THE COMMISSION
12 SHALL CONSIDER THE PROPOSAL AS PART OF ITS RULE-MAKING
13 PROCEEDING.

14 (II) THE HEARING OFFICER SHALL PROVIDE NOTICE OF THE
15 DETERMINATION MADE PURSUANT TO SUBSECTION (2)(d)(I) OF THIS
16 SECTION TO ALL PERSONS THAT HAVE FILED WITH THE COMMISSION A
17 WRITTEN REQUEST TO RECEIVE NOTICE PURSUANT TO SUBSECTION (1) OF
18 THIS SECTION.

19 **SECTION 2. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly; except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article V
23 of the state constitution against this act or an item, section, or part of this
24 act within such period, then the act, item, section, or part will not take
25 effect unless approved by the people at the general election to be held in
26 November 2022 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.