



Energy

During the 2018 legislative session, the General Assembly considered measures concerning the Colorado Energy Office, oil and natural gas regulations, and energy storage systems.

Colorado Energy Office

Through *House Bill 12-1315*, the Governor's Energy Office was reorganized as the Colorado Energy Office (CEO). The mission of the office was modified to encourage all sources of energy development, including renewable energy resources, such as solar, hydro, and wind energy. Funding for the CEO expired July 1, 2017, despite two efforts by the General Assembly to fund the office. The CEO filled this funding gap by securing temporarily repurposed U.S. Department of Energy funds, which allowed CEO staff to remain in place to work on federally approved programs.

Senate Bill 18-003 reauthorizes the CEO and creates new requirements for the office. The bill makes changes to the two funds that support the CEO: the Clean and Renewable Energy Fund and the Innovative Energy Fund. The Clean and Renewable Energy Fund is renamed as the Energy Fund and adds educating the general public on energy issues and opportunities to the list of authorized uses of the fund. The bill removes the requirement in the Innovative Energy Fund that expenditures are limited to only innovative energy efficiency projects and policy development grants and loans. The bill adds nuclear power,

hydroelectric power, propane, and energy storage systems to the list of energy sources and systems that the CEO must promote. The bill also repeals several defunct statutory programs and requirements in the CEO.

Public Utilities and Energy Storage

Colorado has two investor-owned utilities, which are for-profit corporations that are regulated by the Colorado Public Utilities Commission (PUC). *House Bill 18-1271* allows the PUC to approve, and investor-owned electric utilities to charge, a discounted economic development rate for commercial and industrial users who locate or expand their operations in Colorado. To qualify for these rates, customers must demonstrate that electricity cost is critical to their decision about where to locate or expand their business. The bill also authorizes an investor-owned utility to seek approval from the PUC to expand an existing voluntary renewable energy program to meet the current projected demand of a commercial or industrial customer.

House Bill 18-1270 directs the PUC to establish mechanisms for the procurement of energy storage systems by investor-owned electric utilities based on an analysis of costs and benefits, as well as factors such as grid reliability and a reduction in the need for additional peak generation capacity. These mechanisms must not affect ongoing resource

acquisitions or competitive bidding processes existing on February 1, 2018.

The bill directs the PUC to adopt rules governing the installation, interconnection, and use of energy storage systems by customers of investor-owned utilities. An energy storage system is any commercially available, customer-sited system, including batteries and batteries paired with on-site generation, that is capable of retaining, storing, and delivering energy. The bill specifies that utility approval processes for energy storage systems must be simple, streamlined, and affordable and that utilities may not require customer-sited meters to monitor these systems, except as authorized by the PUC.

Oil and Natural Gas Industry Oversight

Current rules adopted by the Colorado Oil and Gas Conservation Commission (COGCC) require that new sites for oil and gas operations be located at least 1,000 feet from school buildings and other high occupancy buildings. *House Bill 18-1352*, which was postponed indefinitely, would have required that the minimum setback distance apply to the school property line, rather than the school building.

Forced pooling. Under current law, any interested person may apply to the COGCC for an order to pool oil and gas resources located within a specifically identified drilling area, referred to as forced pooling. This practice may occur when two or more individuals own separate mineral resources within the same geologic formation of oil or gas reserves. In the absence of voluntary pooling, the commission may compel private owners to pool these resources for development. A pooling order may only be made after all mineral rights owners have been given a reasonable offer to lease their rights to an oil and gas developer. *Senate Bill 18-230* permits the COGCC to authorize more than one drilling unit in a pooling order for oil and gas resources. Drilling

units may cover any pool or portion of a pool, and the order must specify that a nonconsenting mineral owner is immune from liability for costs arising from spills, releases, damage, or injury resulting from operations on the drilling unit. *House Bill 18-1289*, which was postponed indefinitely, would have exempted local governments and school districts that own mineral rights from being forced pooled. The bill would have maintained a local government's or school district's ability to engage in voluntary pooling.

Regulation of oil and natural gas. *House Bill 18-1419*, which was postponed indefinitely, would have required that an oil and gas operator give electronic notice of the location of each subsurface oil and gas facility that the operator installed, owned, or operated to the COGCC and local governments. The bill would have authorized a local government to request a map showing the location of existing well sites and production facilities; approved well sites or sites for which an application is pending; and sites the operator has identified for development. Finally, under the bill, the COGCC would be directed to adopt rules to ensure proper wellhead integrity of all oil and gas production wells.

Senate Bill 18-192, which was postponed indefinitely, would have required that local governments that place a moratorium on oil and gas development compensate mineral owners for the costs, damages, or loss of fair market value that result from the moratorium.

House Bill 18-1071, which was also postponed indefinitely, would have restated current law and codified the Colorado Court Appeals decision in *Martinez v. Colo. Oil & Gas Conservation Comm'n* concerning the regulation of oil and gas. Specifically, the bill required the COGCC to regulate oil and gas operations in a manner that is consistent with the protection of public health, safety, and welfare, including the protection of the environment and wildlife resources.