

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0732.01 Jery Payne x2157

SENATE BILL 21-125

SENATE SPONSORSHIP

Cooke,

HOUSE SPONSORSHIP

(None),

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING THE SUBMISSION OF ALTERNATE PROPOSALS TO RULES
102 BEING CONSIDERED BY THE AIR QUALITY CONTROL
103 COMMISSION.

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>.)

Current law requires the air quality control commission (commission) to give at least 60 days' notice before the hearing when promulgating certain rules that set air quality standards. The bill clarifies that the commission may give an earlier notice and requires the notice to include a description of the classes of persons and entities that will be

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.

affected by the proposed rule.

Current law authorizes people to submit alternate proposals to the commission's rules that set air quality standards. The bill requires the commission to promulgate rules concerning alternate proposals that:

- Establish a deadline for submitting these proposals, but the deadline can be no later than the deadline for party statements;
- Govern the submission of proposals;
- Establish procedures for assigning a hearing officer to make the determination whether the proposal complies with the requirements;
- Ensure that any party to the hearing is afforded sufficient time before the hearing to consider proposals and file with the commission a written response to the proposal.

The commission is prohibited from considering an alternate proposal at the hearing unless the proposal:

- Complies with the bill, as determined by a hearing officer; and
- Includes:
 - An initial economic impact analysis;
 - A description of the classes of persons that will be affected; and
 - A statement as to whether the proposal was developed in consultation with those persons or why consultation with those persons was not conducted.

No later than 10 days after receiving an alternate proposal, a hearing officer must:

- Determine whether the proposal complies with the bill; and
- Provide notice of the determinations to all persons that have filed with the commission a written request to receive the notices.

The bill requires the proponents of an alternate proposal to provide to the commission a final economic impact analysis.

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.** (1) Prior to adopting, promulgating, amending, or
6 modifying any ambient air quality standard authorized in section

1 25-7-108, ~~or~~ any emission control regulation authorized in section
2 25-7-109, or any other regulatory plans or programs authorized by
3 ~~sections~~ SECTION 25-7-105 (1)(c) or 25-7-106, the commission shall
4 conduct a public hearing thereon as provided in section 24-4-103. ~~C.R.S.~~
5 TO COMPLY WITH THIS SECTION, notice of ~~any such~~ THE hearing ~~shall~~
6 MUST:

7 (a) Conform to the requirements of section 24-4-103, ~~C.R.S.~~, but
8 ~~such~~ THE notice ~~shall~~ MUST be given at least sixty days prior to the
9 hearing; ~~and shall~~ EXCEPT THAT THE COMMISSION MAY GIVE THE NOTICE
10 MORE THAN SIXTY DAYS PRIOR TO THE HEARING IF THE COMMISSION
11 DETERMINES THAT A LONGER PERIOD IS NECESSARY;

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

13 (c) Be mailed to all persons who have filed with the commission
14 a written request to receive such notices; AND

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

17 (2) (a) ~~Any person desiring~~ To propose a ~~regulation~~ RULE
18 differing from the ~~regulation~~ RULE proposed by the commission or to
19 propose a revision of limited applicability, ~~pursuant to~~ UNDER section
20 25-7-117, to the commission's proposal, ~~shall~~ A PERSON MUST file ~~such~~
21 THE other proposal with the commission ~~not less than twenty days prior~~
22 ~~to the hearing, and~~ IN ACCORDANCE WITH THIS SUBSECTION (2), WITHIN
23 SUFFICIENT TIME, AS DETERMINED BY THE COMMISSION BY RULE, BEFORE
24 THE RULE-MAKING HEARING, BUT NOT LATER THAN THE DEADLINE
25 ESTABLISHED BY THE COMMISSION BY RULE FOR PARTY STATEMENTS FILED
26 UNDER SECTION 24-4-105 (2)(c). When on file, ~~such proposal shall be~~ THE
27 COMMISSION SHALL MAKE THE PROPOSAL open for public inspection.

1 (b) THE COMMISSION SHALL PROMULGATE PROCEDURAL RULES
2 GOVERNING THE SUBMISSION OF PROPOSALS UNDER THIS SUBSECTION (2).

3 THE RULES MUST:

4 (I) ESTABLISH PROCEDURES FOR ASSIGNING A HEARING OFFICER TO
5 MAKE THE DETERMINATIONS REQUIRED UNDER SUBSECTIONS (2)(c) AND
6 (2)(d) OF THIS SECTION; AND

7 (II) ENSURE THAT ANY PARTY, AS DEFINED IN SECTION 24-4-102
8 (11), TO THE RULE-MAKING HEARING IS AFFORDED SUFFICIENT TIME
9 BEFORE THE HEARING TO CONSIDER PROPOSALS FILED UNDER THIS SECTION
10 AND FILE WITH THE COMMISSION A WRITTEN RESPONSE TO THE PROPOSAL.

11 (c) THE COMMISSION SHALL CONSIDER A PROPOSAL AT THE
12 HEARING ONLY IF THE PROPOSAL:

13 (I) IS SUBMITTED IN ACCORDANCE WITH THIS SECTION; AND

14 (II) CONFORMS TO THE REQUIREMENTS OF SUBSECTION (2)(d)(I)
15 OF THIS SECTION, AS DETERMINED BY A HEARING OFFICER UNDER
16 SUBSECTION (2)(d)(II) OF THIS SECTION.

17 (d) (I) THE PROPONENTS OF A PROPOSAL SUBMITTED UNDER THIS
18 SUBSECTION (2) SHALL INCLUDE, WITH THE FILING OF THE PROPOSAL:

19 (A) A PROPOSED RULE-MAKING PACKET THAT CONFORMS TO THE
20 REQUIREMENTS OF SECTION 25-7-110.5 (4);

21 (B) A DESCRIPTION OF THE CLASSES OF PERSONS, INCLUDING
22 BUSINESSES, THAT WILL BE AFFECTED BY THE ALTERNATE PROPOSAL; AND

23 (C) A STATEMENT AS TO WHETHER THE PROPOSAL WAS
24 DEVELOPED IN CONSULTATION WITH THE PERSONS IDENTIFIED IN
25 SUBSECTION (2)(d)(I)(B) OF THIS SECTION OR WHY CONSULTATION WITH
26 THESE PERSONS WAS NOT CONDUCTED.

27 (II) NO LATER THAN TEN DAYS AFTER RECEIVING A PROPOSAL

1 SUBMITTED UNDER THIS SECTION, A HEARING OFFICER APPOINTED BY THE
2 COMMISSION SHALL:

3 (A) DETERMINE WHETHER THE PROPOSAL IS AN ALTERNATE
4 PROPOSAL, AS DEFINED BY THE COMMISSION IN ITS PROCEDURAL RULES;

5 (B) DETERMINE WHETHER THE PROPOSAL COMPLIES WITH
6 SUBSECTION (2)(d)(I) OF THIS SECTION; AND

7 (C) PROVIDE NOTICE OF THE DETERMINATIONS MADE UNDER
8 SUBSECTIONS (2)(d)(II)(A) AND (2)(d)(II)(B) OF THIS SECTION TO ALL
9 PERSONS THAT HAVE FILED WITH THE COMMISSION A WRITTEN REQUEST TO
10 RECEIVE THE NOTICES.

11 (III) AFTER THE PROPOSAL IS DETERMINED BY A HEARING OFFICER
12 TO BE CONSISTENT WITH THE REQUIREMENTS OF SUBSECTION (2)(d)(I) OF
13 THIS SECTION, THE PROPONENTS OF A PROPOSAL SUBMITTED UNDER THIS
14 SUBSECTION (2) SHALL PROVIDE TO THE COMMISSION A FINAL ECONOMIC
15 IMPACT ANALYSIS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION
16 25-7-110.5 (4).

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

1 (2) This act applies to proposals submitted on or after the
2 applicable effective date of this act.