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SENATE BILL 25-305

BY SENATOR(S) Kirkmeyer and Bridges, Amabile, Bright, Catlin, Frizell, Jodeh, Liston, Marchman, Pelton B., Pelton R., Roberts, Simpson;
also REPRESENTATIVE(S) Bird and Taggart, Sirota, Boesenecker, Caldwell, Clifford, Duran, Froelich, Garcia Sander, Hamrick, Johnson, Joseph, Lieder, Lukens, Martinez, Mauro, McCormick, Richardson, Rutinel, Smith, Stewart K., Titone, Valdez, Velasco, Willford, Winter T., McCluskie.

CONCERNING THE PROCESS BY WHICH THE DIVISION OF ADMINISTRATION IN
THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT ISSUES
PERMITS RELATING TO WATER QUALITY, AND, IN CONNECTION
THEREWITH, MAKING AND REDUCING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 25-8-305, **amend** (2)(f) and (4)(b); and **add** (2)(h) and (4)(c) as follows:

25-8-305. Annual report - repeal. (2) The annual report described in subsection (1) of this section must include information on the division's:

(f) Ratio of general fund appropriations to cash fund appropriations

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

that were authorized for the state fiscal year immediately preceding the date of the report; and

(h) TIMING IN CONSIDERING AND ISSUING PERMITS, INCLUDING THE NUMBER OF YEARS ADMINISTRATIVELY CONTINUED PERMITS HAVE BEEN PENDING, CATEGORIZED BY YEARS PENDING, AND A NARRATIVE DESCRIPTION OF THE DIVISION'S PLAN FOR PROCESSING ADMINISTRATIVELY CONTINUED PERMITS THAT HAVE BEEN ADMINISTRATIVELY CONTINUED FOR LONGER THAN FIVE YEARS.

(4) (b) ~~This subsection (4) is repealed, effective July 1, 2026~~ THE REPORT THAT THE DIVISION SUBMITS IN 2026 MUST INCLUDE A DETAILED DISCUSSION OF HOW THE DIVISION HAS PRIORITIZED REDUCING THE WATER QUALITY PERMIT BACKLOG, IMPLEMENTED RECOMMENDATIONS FROM PERMITTEES FOR PERMITTING EFFICIENCY, AND INCREASED THE NUMBER OF SAFE DRINKING WATER PROGRAM INSPECTIONS.

(c) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 2. In Colorado Revised Statutes, 25-8-501, **amend** (2) as follows:

25-8-501. Permits required for discharge of pollutants - administration. (2) (a) The division shall examine applications for and may issue, suspend, revoke, modify, deny, and otherwise administer permits for the discharge of pollutants into state waters and for the use and disposal of biosolids. ~~Such~~ THE administration shall be in accordance with ~~the provisions of this article~~ ARTICLE 8 and ~~regulations promulgated~~ RULES ADOPTED by the commission. Until modified pursuant to this ~~article~~ ARTICLE 8, final permits shall be governed by their existing limitations.

(b) UPON RECEIPT OF AN APPLICATION TO MODIFY A PERMIT, THE DIVISION SHALL LIMIT ITS REVIEW AND, AS APPROPRIATE, ITS APPROVAL OR DENIAL OF THE APPLICATION, TO THE SCOPE OF THE SPECIFIC REQUESTS CONTAINED IN THE APPLICATION.

SECTION 3. In Colorado Revised Statutes, 25-8-502, **add** (3)(d) and (7) as follows:

25-8-502. Application - definitions - fees - funds created - public

participation - rules - repeal. (3) (d) ON OR BEFORE DECEMBER 31, 2026, THE COMMISSION SHALL ADOPT RULES ESTABLISHING PROCEDURES WHEREBY THE DIVISION, PRIOR TO GIVING PUBLIC NOTICE OF A COMPLETE PERMIT APPLICATION FOR AN INDIVIDUAL PERMIT AND THE DIVISION'S PRELIMINARY ANALYSIS OF THE APPLICATION PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION, MAY PROVIDE A PERIOD OF PUBLIC NOTICE AND REVIEW OF A PRELIMINARY DRAFT PREPARED BY THE DIVISION. IF A PERIOD OF PUBLIC NOTICE AND REVIEW IS REQUIRED BY RULES OF THE COMMISSION, THE PERIOD OF PUBLIC NOTICE AND REVIEW MAY NOT EXCEED FOURTEEN DAYS, AND THE PURPOSE OF THE REVIEW IS LIMITED TO IDENTIFYING ERRORS IN THE DIVISION'S PRELIMINARY DRAFT. THE DIVISION SHALL MAKE AVAILABLE ON THE DIVISION'S PUBLIC WEBSITE ANY DOCUMENTS PROVIDED BY THE DIVISION DURING A PERIOD OF PUBLIC NOTICE AND REVIEW.

(7) (a) ON OR BEFORE DECEMBER 31, 2027, THE DIVISION SHALL PROPOSE RULES TO THE COMMISSION THAT ESTABLISH A TIME FRAME DURING WHICH THE DIVISION WILL EITHER GRANT OR DENY APPLICATIONS FOR EACH TYPE OF PERMITTING ACTION. ON OR BEFORE JUNE 30, 2028, THE COMMISSION SHALL ADOPT RULES BASED ON THE DIVISION'S PROPOSAL. THE RULES MUST ESTABLISH THE TIME FRAMES FOR PERMITTING ACTIONS, INCLUDING:

(I) THE ISSUANCE OF NEW INDIVIDUAL PERMITS AND NEW GENERAL PERMITS;

(II) THE RENEWAL OF GENERAL PERMITS AND INDIVIDUAL PERMITS;

(III) THE GRANTING OR DENYING OF REQUESTS FOR PERMIT MODIFICATIONS; AND

(IV) THE DETERMINATION OF PRELIMINARY EFFLUENT LIMITATIONS.

(b) (I) THE DIVISION SHALL BEGIN THE PROCESS TO CREATE A PROPOSAL OF TIME FRAMES FOR PERMITTING ACTIONS FOR THE PURPOSES OF SUBSECTION (7)(a) OF THIS SECTION ON OR BEFORE AUGUST 1, 2025.

(II) THIS SUBSECTION (7)(b) IS REPEALED, EFFECTIVE JULY 1, 2026.

SECTION 4. In Colorado Revised Statutes, 25-8-503, **add** (10) as follows:

25-8-503. Permits - when required and when prohibited - variances - definition. (10) (a) THE DIVISION SHALL CONSIDER CURRENT DEBT SERVICE ON EXISTING LOCAL GOVERNMENT WATER INFRASTRUCTURE WHEN DEVELOPING SCHEDULES OF COMPLIANCE FOR NEW EFFLUENT LIMITS IN LOCAL GOVERNMENT PERMITS.

(b) ANY SCHEDULE OF COMPLIANCE THAT THE DIVISION DEVELOPS FOR NEW EFFLUENT LIMITS IN LOCAL GOVERNMENT PERMITS MUST, CONSISTENT WITH STATE AND FEDERAL LAW, CONSIDER THE LOCAL GOVERNMENT'S FINANCIAL CAPABILITY TO REPAY EXISTING DEBT ON WATER INFRASTRUCTURE OR TO FUND WATER INFRASTRUCTURE UPGRADES BEFORE REQUIRING NEW WATER INFRASTRUCTURE UPGRADES. TO THE EXTENT ALLOWABLE UNDER FEDERAL LAW, THE DIVISION MAY ESTABLISH COMPLIANCE SCHEDULES IN A LOCAL GOVERNMENT PERMIT FOR A NEW EFFLUENT LIMIT IN EXCESS OF TWENTY YEARS.

(c) AS USED IN THIS SUBSECTION (10), "WATER INFRASTRUCTURE" INCLUDES WASTEWATER TREATMENT INFRASTRUCTURE, DRINKING WATER TREATMENT INFRASTRUCTURE, AND RAW WATER INFRASTRUCTURE.

SECTION 5. In Colorado Revised Statutes, **add** 25-8-503.7 as follows:

25-8-503.7. Use of qualified and independent contractors - powers and duties of the division - fees - definitions. (1) ON AND AFTER MAY 1, 2026, AN APPLICANT AND THE DIVISION MAY MUTUALLY AGREE TO USE A QUALIFIED AND INDEPENDENT NONGOVERNMENTAL CONTRACTOR UNDER THE DIRECTION OF THE DIVISION TO PROVIDE THE DIVISION WITH TECHNICAL ASSISTANCE IN COMPLETING THE PERMIT ACTION IF:

(a) AN APPLICATION FOR PERMIT MODIFICATION OR PERMIT RENEWAL HAS BEEN PENDING BEFORE THE DIVISION FOR SIXTY DAYS;

(b) AN APPLICATION FOR PERMIT MODIFICATION OR PERMIT RENEWAL IS PENDING BEFORE THE DIVISION AS OF MAY 1, 2026; OR

(c) THE DIVISION INFORMS AN APPLICANT THAT THE DIVISION WILL NOT PROCESS AN APPLICATION FOR PRELIMINARY EFFLUENT LIMITATIONS.

(2) A CONTRACTOR THAT PROVIDES TECHNICAL ASSISTANCE

PURSUANT TO THIS SECTION MAY ASSIST THE DIVISION WITH SOME OR ALL OF THE FOLLOWING, AT THE DIVISION'S DISCRETION:

- (a) PREPARING THE DIVISION'S PROPOSED PERMIT ACTION;
- (b) PREPARING THE DIVISION'S RESPONSES TO PUBLIC COMMENTS RECEIVED ON THE PROPOSED PERMIT ACTION, IF ANY;
- (c) PREPARING THE DIVISION'S FINAL PERMIT ACTION;
- (d) AIDING IN THE DIVISION'S DEFENSE OF THE FINAL PERMIT ACTION IN ANY ADMINISTRATIVE ADJUDICATORY PROCEEDINGS; AND
- (e) AIDING IN THE DIVISION'S DEFENSE OF THE FINAL PERMIT ACTION IN ANY JUDICIAL PROCEEDINGS.

(3) THE APPLICANT SHALL BEAR THE CONTRACTOR'S COSTS FOR ANY TECHNICAL ASSISTANCE PROVIDED PURSUANT TO THIS SECTION AND SHALL REMIT PAYMENT FOR THE COSTS DIRECTLY TO THE CONTRACTOR. THE DIVISION MAY CHARGE THE APPLICANT AN ADDITIONAL FEE IN AN AMOUNT NOT EXCEEDING TEN PERCENT OF THE CONTRACT AMOUNT FOR CONTRACT ADMINISTRATION, TECHNICAL REVIEW, AND ADDITIONAL PERMIT PROCESSING. MONEY COLLECTED AS AN ADDITIONAL FEE SHALL BE CREDITED TO THE CLEAN WATER CASH FUND CREATED IN SECTION 25-8-210. THE DIVISION MAY, BEFORE ISSUING ITS FINAL PERMIT ACTION, REQUIRE THE APPLICANT TO FULLY PAY THE ADDITIONAL FEE AND ANY CONTRACTOR COSTS.

(4) (a) THE DIVISION, IN ITS SOLE DISCRETION, SHALL PROVIDE OVERSIGHT TO ENSURE THAT CONTRACTORS PROVIDE TECHNICAL ASSISTANCE IN ACCORDANCE WITH THE TERMS OF THEIR CONTRACTS. THE DIVISION MAY REQUIRE A CONTRACTOR'S TECHNICAL ASSISTANCE TO CONFORM TO ALL COMMISSION RULES, DIVISION POLICIES, AND DIVISION PRACTICES APPLICABLE TO THE PERMIT ACTION IN QUESTION.

(b) THE DIVISION MAY DEEM SOME OR ALL OF THE CONTRACTOR'S TECHNICAL ASSISTANCE AS UNACCEPTABLE AND MAY REJECT, REQUIRE CORRECTION OF, OR DENY APPROVAL FOR SUCH ASSISTANCE. THE DIVISION'S REJECTION, REQUIRED CORRECTION, OR DENIAL OF APPROVAL OF A CONTRACTOR'S TECHNICAL ASSISTANCE IS NOT SUBJECT TO JUDICIAL OR

ADMINISTRATIVE REVIEW AND DOES NOT RELIEVE AN APPLICANT OF THE OBLIGATION TO PAY THE CONTRACTOR'S COSTS FOR SUCH TECHNICAL ASSISTANCE.

(c) THE DIVISION'S USE OF CONTRACTORS PURSUANT TO THIS SECTION DOES NOT RELIEVE THE DIVISION OF ITS OBLIGATIONS UNDER THIS ARTICLE 8.

(d) THE DIVISION IS NOT SUBJECT TO THE REQUIREMENTS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, IN SELECTING OR CONTRACTING WITH THE CONTRACTORS.

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONFLICT OF INTEREST" MEANS A DIRECT AND SUBSTANTIAL PERSONAL OR FINANCIAL INTEREST IN THE OUTCOME OF A PERMIT OR PERMIT ACTION SUCH THAT A CONTRACTOR IS UNABLE TO FULFILL ITS DUTY TO REMAIN FAIR, IMPARTIAL, OR OBJECTIVE.

(b) "INDEPENDENT" MEANS HAVING NO CONFLICT OF INTEREST WITH A PERMITTEE.

(c) "QUALIFIED" MEANS HAVING SUBSTANTIAL PROFESSIONAL EDUCATION, TRAINING, OR EXPERIENCE IN WATER QUALITY PERMITTING.

SECTION 6. In Colorado Revised Statutes, 25-8-210, **add** (4)(a)(I.2) as follows:

25-8-210. Fees established administratively - rules - shareholding requirement - phase-in period - clean water cash fund - creation - repeal. (4) (a) The clean water cash fund is created in the state treasury. The fund consists of:

(I.2) FEES COLLECTED PURSUANT TO SECTION 25-8-503.7 (3);

SECTION 7. In Colorado Revised Statutes, **add** 25-8-503.8 as follows:

25-8-503.8. Documents, information, and data utilized in

developing permits. UPON A PERMITTEE'S REQUEST, THE DIVISION SHALL MAKE AVAILABLE TO THE PERMITTEE ALL DOCUMENTS, DATA, AND INFORMATION THE DIVISION RELIED UPON IN DEVELOPING THE PERMITTEE'S PERMIT MODIFICATION OR PERMIT, INCLUDING ANY MODEL, TOOL, OR TABULAR WORKSHEET AND ANY FORMULAS, MACROS, METADATA, AND CALCULATIONS CONTAINED IN SUCH MATERIALS, EXCEPT TO THE EXTENT THAT THE DOCUMENTS, DATA, AND INFORMATION ARE PROTECTED BY AN APPLICABLE PRIVILEGE, SUCH AS THE ATTORNEY-CLIENT PRIVILEGE OR THE DELIBERATIVE-PROCESS PRIVILEGE, OR ARE SUBJECT TO AN EXCEPTION FROM DISCLOSURE SET FORTH IN SECTION 24-72-204.

SECTION 8. In Colorado Revised Statutes, 25-8-608, **amend** (1.8) as follows:

25-8-608. Civil penalties - rules - fund created - temporary moratorium on penalties for minor violations - definitions - repeal. (1.8) (a) Notwithstanding any provision of subsection (1.5) or (1.7) of this section to the contrary, on ~~April 20, 2009~~ JULY 1, 2025, the state treasurer shall ~~deduct seven hundred thousand dollars~~ TRANSFER ONE HUNDRED ELEVEN THOUSAND DOLLARS from the water quality improvement fund ~~and transfer such sum to the general fund~~ DRINKING WATER CASH FUND CREATED IN SECTION 25-1.5-209 (2).

(b) THIS SUBSECTION (1.8) IS REPEALED, EFFECTIVE AUGUST 1, 2026.

SECTION 9. In Colorado Revised Statutes, 8-20-206.5, **add** (7)(d) as follows:

8-20-206.5. Environmental response surcharge - liquefied petroleum gas and natural gas inspection fund - perfluoroalkyl and polyfluoroalkyl substances cash fund - hazardous materials infrastructure cash fund - fuels impact reduction grant program - definitions - repeal. (7) (d) (I) NOTWITHSTANDING SUBSECTION (7)(c) OF THIS SECTION, THE STATE TREASURER SHALL TRANSFER THE FOLLOWING AMOUNTS FROM THE FUND ON THE FOLLOWING DATES:

(A) ON JULY 1, 2025, THREE MILLION FIVE HUNDRED EIGHTEEN THOUSAND FIVE HUNDRED SIXTY-FOUR DOLLARS TO THE CLEAN WATER CASH FUND CREATED IN SECTION 25-8-210;

(B) ON JULY 1, 2026, THREE MILLION TWO THOUSAND FOUR HUNDRED THIRTY-FIVE DOLLARS TO THE CLEAN WATER CASH FUND CREATED IN SECTION 25-8-210; AND

(C) ON JULY 1, 2026, FIVE HUNDRED SIXTEEN THOUSAND ONE HUNDRED TWENTY-NINE DOLLARS TO THE DRINKING WATER CASH FUND CREATED IN SECTION 25-1.5-209 (2).

(II) THIS SUBSECTION (7)(d) IS REPEALED, EFFECTIVE JULY 1, 2028.

SECTION 10. Appropriation. (1) For the 2025-26 state fiscal year, \$2,904,599 is appropriated to the department of public health and environment. This appropriation consists of \$446,315 from the drinking water cash fund created in section 25-1.5-209 (2)(a), C.R.S., and \$2,458,284 from the clean water cash fund created in section 25-8-210 (4)(a), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$2,035,705 from the clean water cash fund for clean water program costs, which amount is based on an assumption that the department will require an additional 18.0 FTE;

(b) \$385,345 from the drinking water cash fund for use by the drinking water program for personal services, which amount is based on an assumption that the department will require an additional 4.0 FTE;

(c) \$322,938, which consists of \$60,970 from the drinking water cash fund, and \$261,968 from the clean water cash fund for use by the water quality control division for indirect cost assessments; and

(d) \$160,611 from the clean water cash fund for the purchase of legal services.

(2) For the 2025-26 state fiscal year, \$160,611 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1)(d) of this section and is based on an assumption that the department of law will require an additional 0.7 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public health and environment.

SECTION 11. Appropriation - adjustments to 2025 long bill.

(1) To implement this act, appropriations made in the annual general appropriation act for the 2025-26 state fiscal year to the department of public health and environment for use by the administration and support division are adjusted as follows:

(a) The general fund appropriation for health, life, and dental is decreased by \$171,630;

(b) The appropriation for health, life, and dental is increased by \$171,630, which consists of \$31,205 from the drinking water cash fund created in section 25-1.5-209 (2)(a), C.R.S., and \$140,425 from the clean water cash fund created in section 25-8-210 (4)(a), C.R.S.;

(c) The general fund appropriation for short-term disability is decreased by \$2,140;

(d) The appropriation for short-term disability is increased by \$2,140, which consists of \$389 from the drinking water cash fund created in section 25-1.5-209 (2)(a), C.R.S., and \$1,751 from the clean water cash fund created in section 25-8-210 (4)(a), C.R.S.;

(e) The general fund appropriation for unfunded liability amortization equalization disbursement payments is decreased by \$140,238; and

(f) The appropriation for unfunded liability amortization equalization disbursement payments is increased by \$140,238, which consists of \$25,498 from the drinking water cash fund created in section 25-1.5-209 (2)(a), C.R.S., and \$114,740 from the clean water cash fund created in section 25-8-210 (4)(a), C.R.S.

SECTION 12. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO