

Amendment No. 463

Senate Amendment to Senate Bill No. 390 (BDR 46-929)

Proposed by: Senate Committee on Natural Resources

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 390.

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

JRS/BJE



Date: 4/22/2013

S.B. No. 390—Enacts provisions relating to hydraulic fracturing. (BDR 46-929)



SENATE BILL NO. 390—SENATORS SEGERBLOM; AND JONES

MARCH 18, 2013

JOINT SPONSORS: ASSEMBLYMEN BOBZIEN AND DALY

Referred to Committee on Natural Resources

SUMMARY—~~Enacts provisions relating to~~ **Requires the development of a hydraulic fracturing program for the State of Nevada.** (BDR 46-929)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to natural resources; requiring ~~in a person who wishes to engage in hydraulic fracturing to obtain a permit from~~ **the Division of Minerals of the Commission on Mineral Resources and** the Division of Environmental Protection of the State Department of Conservation and Natural Resources ~~requiring the Division to post certain information on its Internet website; authorizing the Division to charge a fee for issuing a permit and to adopt regulations; providing a penalty;~~ **jointly, to develop a hydraulic fracturing program for the State of Nevada; requiring the adoption of regulations to implement the program;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires persons desiring to drill a well in search of oil or gas to obtain a permit from the Division of Minerals of the Commission on Mineral Resources. (NRS 522.050) ~~In addition to obtaining the permit, section 2 of this bill requires a person who wishes to engage in hydraulic fracturing, the process of pumping a fluid into or under the ground in order to create fractures in the rock to facilitate the production or recovery of oil or gas, to obtain a permit to engage in hydraulic fracturing from the Division of Environmental Protection of the State Department of Conservation and Natural Resources. Section 3 requires an applicant for such a permit to submit: (1) a hydrologic study of the effects of the proposed hydraulic fracturing on water sources; (2) a seismologic study of the seismographic aspects of the area in which the proposed hydraulic fracturing is to occur; (3) a plan to monitor the air and water quality of the area in which the proposed hydraulic fracturing is to occur; and (4) a list of all chemicals to be used in the proposed hydraulic fracturing. Section 3 requires a person who is issued the permit to revise the required list of chemicals quarterly and at the commencement and cessation of operations at the well. Section 2 further prohibits: (1) the issuance of a permit for the use of hydraulic fracturing within 2,000 feet of certain buildings;~~

and (2) the use of known carcinogens by any person who is issued a permit to engage in hydraulic fracturing in the operation of a well.

~~Section 4 of this bill~~ Section 1 of this bill requires the Division of Minerals, jointly, with the Division of Environmental Protection ~~to post on its Internet website information submitted by persons applying for and persons issued a permit to engage in~~ of the State Department of Conservation and Natural Resources, to develop a program concerning hydraulic fracturing. ~~Section 5 of this bill authorizes the Division of Environmental Protection to adopt any regulations prescribing a fee for issuing a permit and any other regulations necessary to carry out the provisions of this bill.~~ to: (1) assess the effects of hydraulic fracturing on the waters of the State of Nevada; (2) require a person who engages in hydraulic fracturing to disclose each chemical used to engage in hydraulic fracturing; and (3) provide for notice to members of the general public concerning activities relating to hydraulic fracturing in this state. Section 1 also requires the Commission on Mineral Resources, in consultation with the Division of Environmental Protection, to adopt regulations to implement the program.

Section 10 of this bill requires the program to be developed by July 1, 2014, and the regulations to implement the program to be adopted by January 1, 2015.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 522 of NRS is hereby amended by adding thereto ~~the provisions set forth as sections 2 to 5, inclusive, of this act.~~ a new section to read as follows:

1. The Division of Minerals and the Division of Environmental Protection shall, jointly, develop a hydraulic fracturing program to:

(a) Assess the effects of hydraulic fracturing on the waters of the State of Nevada;

(b) Require a person who engages in hydraulic fracturing to disclose each chemical used to engage in hydraulic fracturing; and

(c) Provide for notice to members of the general public concerning activities relating to hydraulic fracturing in this state.

2. The Commission on Mineral Resources shall adopt regulations to implement the hydraulic fracturing program required by subsection 1.

3. As used in this section:

(a) "Division of Environmental Protection" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(b) "Hydraulic fracturing" means the process of pumping a fluid into or under the surface of the ground to create fractures in the rock to facilitate the production or recovery of oil or gas.

Sec. 2. ~~"Division of Environmental Protection" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.~~ (Deleted by amendment.)

Sec. 3. ~~1. In addition to a permit required pursuant to NRS 522.050, a person who wishes to engage in hydraulic fracturing while operating a well in search of oil or gas shall, before operating the well, apply to the Division of Environmental Protection for a permit on a form prescribed by the Division of Environmental Protection. The application must include:~~

~~(a) A hydrologic study identifying each source of water that may be affected by the proposed hydraulic fracturing, both through drilling and through the disposal of wastewater.~~

~~(b) A seismologic study of the region where the applicant proposes to engage in hydraulic fracturing. The study must identify all known and suspected fault lines that may be affected by the proposed hydraulic fracturing and include the results of any seismic surveys.~~

~~(c) A plan to monitor the quality of the air and water in locations that may be affected by the proposed hydraulic fracturing. The plan must include:~~

~~(1) Baseline measurements of air and water quality in a number of locations sufficient to ensure detection of any significant change to the air and water quality caused by the proposed hydraulic fracturing by the new measurements required by subparagraph (2); and~~

~~(2) Quarterly reporting of new measurements of the air and water quality in the locations for which baseline measurements of air and water quality were measured pursuant to subparagraph (1), to continue throughout the period during which the well is in operation and for at least 3 years immediately after the well ceases to be in operation.~~

~~(d) A complete and specific disclosure of all chemicals, including proprietary chemicals, that the applicant plans to use in the proposed hydraulic fracturing. The disclosure for each chemical must include the product name of the chemical, the names and chemical formulas of all chemical compounds present in the chemical and any hazardous components of the chemical which are listed on a material data safety sheet.~~

~~2. The Division of Environmental Protection may not issue a permit for a person to engage in hydraulic fracturing within 2,000 feet of any home, school or hospital.~~

~~3. The Division of Environmental Protection shall evaluate each application submitted pursuant to subsection 1 and, if the Division determines that the proposed hydraulic fracturing will not be deleterious to the health or welfare of any person or the environment, that the air and water quality will be adequately monitored and that the issuance of a permit does not violate subsection 2, shall issue a permit. A permit issued pursuant to this section is valid only for the well for which the Division of Environmental Protection issues the permit and expires upon the cessation of operations at the well.~~

~~4. A person who is issued a permit:~~

~~(a) Shall revise the list of chemicals required to be submitted pursuant to paragraph (d) of subsection 1;~~

~~(1) Quarterly for the entire period during which the well is in operation; and~~

~~(2) Upon the commencement and cessation of operations at the well; and~~

~~(b) Shall not use any known carcinogens, as defined by the International Agency for Research on Cancer or the National Toxicology Program, in the operations of the well.~~

~~5. As used in this section:~~

~~(a) "Hydraulic fracturing" means the process of pumping a fluid into or under the surface of the ground to create fractures in the rock to facilitate the production or recovery of oil or gas.~~

~~(b) "Material safety data sheet" means a document prepared in accordance with the requirements of the hazard communication standard set forth in 29 C.F.R. § 1910.1200 and which contains hazard and safe handling information for a chemical.~~

~~(c) "Seismic survey" means a method of exploration in which low frequency sound waves are generated on the surface of the ground to find subsurface rock structures that may contain oil or gas.~~

~~(d) "Wastewater" means any water containing chemicals or other contaminants derived from the use of the water in hydraulic fracturing.~~ **(Deleted by amendment.)**

Sec. 4. ~~{The Division of Environmental Protection shall post on its Internet website all information submitted by a person to comply with the provisions of section 3 of this act within 10 days of receiving the information. The Internet website must allow users to search, sort and download the information by the name of the applicant or permittee, the county in which the well is located, the latitude and longitude of the well, the well number, the names and chemical formulas of the chemicals used in the operation of the well and the size and depth of the well.}~~ **(Deleted by amendment.)**

Sec. 5. ~~{The Division of Environmental Protection may prescribe:~~
~~1. By regulation, a fee for issuing a permit; and~~
~~2. Any other regulations necessary to carry out the provisions of sections 3 and 4 of this act.}~~ **(Deleted by amendment.)**

Sec. 6. ~~{NRS 522.020 is hereby amended to read as follows:~~
~~522.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 522.021 to 522.0395, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.}~~ **(Deleted by amendment.)**

Sec. 7. NRS 522.040 is hereby amended to read as follows:
522.040 ~~Except as otherwise provided in {sections 3, 4 and 5}~~ **section 1 of this act:**

1. The Division has jurisdiction and authority over all persons and property, public and private, necessary to effectuate the purposes and intent of this chapter.

2. The Division shall make investigation to determine whether waste exists or is imminent, or whether other facts exist which justify or require action by it.

3. The Division shall adopt regulations, make orders and take other appropriate action to effectuate the purposes of this chapter.

4. The Division may:

(a) Require:
(1) Identification or ownership of wells, producing leases, tanks, plants and drilling structures.

(2) The making and filing of reports, well logs and directional surveys. Logs of exploratory or "wildcat" wells marked "confidential" must be kept confidential for 6 months after the filing thereof, unless the owner gives written permission to release those logs at an earlier date.

(3) The drilling, casing and plugging of wells in such a manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water, and to prevent blowouts, cavings, seepages and fires.

(4) The furnishing of a reasonable bond with good and sufficient surety conditioned for the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste.

(5) The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios.

(6) The gauging or other measuring of oil and gas to determine the quality and quantity thereof.

(7) That every person who produces oil or gas in this State keep and maintain for a period of 5 years within this State complete and accurate record of the quantities thereof, which must be available for examination by the Division or its agents at all reasonable times.

(b) Regulate, for conservation purposes:

- (1) The drilling, producing and plugging of wells.
 - (2) The shooting and chemical treatment of wells.
 - (3) The spacing of wells.
 - (4) The disposal of salt water, nonpotable water and oil field wastes.
 - (5) The contamination or waste of underground water.
- (c) Classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter.

Sec. 8. ~~PNRS 522.120 is hereby amended to read as follows:~~

~~522.120 1. Any person who willfully violates any provision of this chapter, or any regulation or order of the Division of Minerals or any regulation of the Division of Environmental Protection, is subject to a penalty of not more than \$1,000 for each act of violation and for each day that the violation continues, unless the penalty for the violation is otherwise provided for and made exclusive in this chapter.~~

~~2. If any person, for the purpose of evading this chapter, or any regulation or order of the Division [.] of Minerals or any regulation of the Division of Environmental Protection, makes or causes to be made any false entry in any record, account or memorandum required by this chapter, or by any such regulation or order, or omits or causes to be omitted, from any such record, account or memorandum, full, true and correct entries as required by this chapter, or by any such regulation or order, or removes from this state or destroys, mutilates, alters or falsifies any such record, account or memorandum, that person is guilty of a gross misdemeanor.~~

~~3. Any person knowingly aiding or abetting any other person in the violation of any provision of this chapter, or any regulation or order of the Division of Minerals or any regulation of the Division of Environmental Protection, is subject to the same penalty as that prescribed by this chapter for the violation by the other person.~~

~~4. The penalties provided in this section are recoverable by suit filed by the Attorney General in the name and on behalf of the Division of Minerals or the Division of Environmental Protection, as appropriate, in the district court of the county in which the defendant resides or in which any defendant resides, if there is more than one defendant, or in the district court of any county in which the violation occurred. The payment of any such penalty does not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of the violation. (Deleted by amendment.)~~

Sec. 9. ~~PNRS 522.130 is hereby amended to read as follows:~~

~~522.130 1. Whenever it appears that any person is violating or threatening to violate any provision of this chapter, or any regulation or order of the Division [.] of Minerals or any regulation of the Division of Environmental Protection, the Division of Minerals or the Division of Environmental Protection, as appropriate, shall bring suit against that person in the district court of any county where the violation occurs or is threatened to restrain the person from continuing the violation or from carrying out the threat of violation. Upon the filing of any such suit, summons issued to the person may be directed to the sheriff of any county in this state for service by the sheriff or the sheriff's deputies. In any such suit, the court may grant to the Division [.] of Minerals or the Division of Environmental Protection, as appropriate, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant.~~

~~2. If the Division of Minerals or the Division of Environmental Protection, as appropriate, fails to bring suit to enjoin a violation or threatened violation of any provision of this chapter, or any regulation or order of the Division [.] of Minerals or any regulation of the Division of Environmental Protection, within 10 days~~

1 after receipt of written request to do so by any person who is or will be adversely
2 affected by the violation, the person making the request may bring suit in his or her
3 own behalf to restrain the violation or threatened violation in any court in which the
4 ~~Division of Minerals or the Division of Environmental Protection, as appropriate,~~
5 might have brought suit. If, in the suit, the court should hold that injunctive relief
6 should be granted, then the ~~Division of Minerals or the Division of Environmental~~
7 ~~Protection, as appropriate,~~ must be made a party and must be substituted for the
8 person who brought the suit, and the injunction must be issued as if the ~~Division of~~
9 ~~Minerals or the Division of Environmental Protection, as appropriate,~~ had at all
10 times been the plaintiff. (Deleted by amendment.)

11 Sec. 10. 1. This act becomes effective ~~+~~

12 ~~1. Upon~~ upon passage and approval ~~for the purpose of adopting~~
13 ~~regulations; and~~

14 2. ~~{For all other purposes, on January 1, 2014.}~~ The Division of Minerals of
15 the Commission on Mineral Resources and the Division of Environmental
16 Protection of the State Department of Conservation and Natural Resources
17 shall develop the program required by section 1 of this act on or before July 1,
18 2014.

19 3. The Commission on Minerals shall adopt the regulations to implement
20 the program required by section 1 of this act on or before January 1, 2015.