

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0944.01 Thomas Morris

SENATE BILL 11-237

SENATE SPONSORSHIP

Lundberg,

HOUSE SPONSORSHIP

(None),

Senate Committees
State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING CHANGES NECESSARY TO MAKE THE REGIONAL HAZE
102 STATE IMPLEMENTATION PLAN COST-EFFECTIVE IN
103 ACCORDANCE WITH COLORADO LAW, AND, IN CONNECTION
104 THEREWITH, DISAPPROVING THOSE PORTIONS OF THE REGIONAL
105 HAZE EMISSION ELEMENT OF THE STATE IMPLEMENTATION PLAN
106 THAT RELATE TO THE REQUIREMENT FOR EMISSION CONTROLS
107 FOR THE HAYDEN ELECTRIC GENERATING UNITS; REPEALING
108 THE RULES ASSOCIATED WITH THE DISAPPROVED PORTION OF
109 THE STATE IMPLEMENTATION PLAN; APPROVING OTHER
110 ASPECTS OF THE STATE IMPLEMENTATION PLAN; AND
111 POSTPONING THE AUTOMATIC EXPIRATION OF THE RULES
112 ASSOCIATED WITH THE APPROVED PORTION OF THE STATE

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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://www.leg.state.co.us/billsummaries>.)

The air quality control commission adopted a regional haze state implementation plan (SIP) on January 7, 2011. The bill approves the regional haze SIP and postpones the automatic expiration under the "State Administrative Procedure Act" of the rules on regional haze that are contained in the SIP; except that the portions of the SIP that relate to the requirement for emission controls for the Hayden electric generating units 1 and 2 are disapproved and the associated rules are repealed.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby:

4 (a) Declares that the general assembly ought to balance costs with
5 the benefits to public health and the environment when it determines
6 whether additions or changes to the state implementation plan (SIP)
7 accomplish the results intended by enactment of the statutory provisions
8 under which the additions or changes to the SIP were adopted;

9 (b) Determines that:

10 (I) Pursuant to section 25-7-105.1 (1), Colorado Revised Statutes,
11 SIPs are prohibited from including requirements that are more stringent
12 than or otherwise not required by the federal "Clean Air Act"; and

13 (II) The federal environmental protection agency has determined
14 that selective catalytic reduction nitrogen oxides controls are generally
15 not cost-effective for coal-fired power plants that are smaller than seven

1 hundred fifty megawatts; and

2 (c) Finds that those elements of the regional haze SIP described
3 in the January 14, 2011, report from the air quality control commission
4 that relate to the requirement for selective catalytic reduction nitrogen
5 oxide emission controls for the Hayden electric generating units 1 and 2
6 are:

7 (I) More stringent than or otherwise not required by the federal
8 "Clean Air Act"; and

9 (II) Not justified by the cost of the controls in comparison with the
10 benefits to public health and the environment.

11 **SECTION 2.** 25-7-133.5 (2), Colorado Revised Statutes, is
12 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13 **25-7-133.5. Approval or rescission of specific revisions to state**
14 **implementation plan (SIP) after 1996.** (2) Pursuant to section
15 25-7-133, the following revisions to the state implementation plan (SIP),
16 which were adopted by the air quality control commission on the dates
17 indicated and received by the legislative council for review, are approved
18 for incorporation into the state implementation plan:

19 (bb) (I) EXCEPT AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS
20 PARAGRAPH (bb):

21 (A) THE "COLORADO VISIBILITY AND REGIONAL HAZE STATE
22 IMPLEMENTATION PLAN FOR THE TWELVE MANDATORY CLASS I FEDERAL
23 AREAS IN COLORADO", ADOPTED BY THE AIR QUALITY CONTROL
24 COMMISSION ON JANUARY 7, 2011;

25 (B) THE AUTOMATIC EXPIRATION OF THE RULES CONTAINED IN THE
26 PLAN SPECIFIED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I)
27 THAT WERE ADOPTED ON JANUARY 7, 2011, AND THAT ARE THEREFORE

1 SCHEDULED FOR EXPIRATION ON MAY 15, 2012, IS POSTPONED, EFFECTIVE
2 MAY 15, 2011.

3 (II) (A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
4 CONTRARY, INCLUDING PART 2 OF ARTICLE 3.2 OF TITLE 40, C.R.S., THOSE
5 ASPECTS OF THE PLAN SPECIFIED IN SUB-SUBPARAGRAPH (A) OF
6 SUBPARAGRAPH (I) OF THIS PARAGRAPH (bb) THAT RELATE TO THE
7 REQUIREMENT OF SELECTIVE CATALYTIC REDUCTION EMISSION CONTROLS
8 FOR THE HAYDEN ELECTRIC GENERATING UNITS 1 AND 2 ARE DISAPPROVED
9 AS BEING NOT COST-EFFECTIVE AND MORE STRINGENT THAN OR
10 OTHERWISE NOT REQUIRED BY THE FEDERAL "CLEAN AIR ACT", IN
11 VIOLATION OF SECTION 25-7-105.1 (1).

12 (B) THOSE PORTIONS OF REGULATION 3, 5 CCR 1001-5, PART F,
13 RULE VI.A., THAT RELATE TO THE REQUIREMENT OF SELECTIVE
14 CATALYTIC REDUCTION EMISSION CONTROLS FOR THE HAYDEN ELECTRIC
15 GENERATING UNITS 1 AND 2 ARE REPEALED, EFFECTIVE MAY 15, 2011.

16 **SECTION 3. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.