

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 373

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO THE OIL AND GAS CONSERVATION COMMISSION; AMENDING SECTION  
47-317, IDAHO CODE, TO PROVIDE THAT THE OIL AND GAS CONSERVATION COMMISSION OF THE STATE OF IDAHO RESIDES WITHIN THE IDAHO DEPARTMENT OF LANDS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 47-317, Idaho Code, be, and the same is hereby amended to read as follows:

47-317. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS -- LIMIT ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created an oil and gas conservation commission of the state of Idaho within the department of lands. The commission shall consist of five (5) members appointed by the governor with the advice and consent of the senate. The members shall serve at the pleasure of the governor. One (1) member shall be knowledgeable in oil and gas matters, one (1) member shall be knowledgeable in geological matters, one (1) member shall be knowledgeable in water matters, one (1) member shall be a private landowner who owns mineral rights with the surface in a county with oil and gas activity and one (1) member shall be a private landowner who does not own mineral rights.

(2) The term of office of each member of the commission shall be four (4) years, except that upon July 1, 2013, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years and two (2) members for terms of four (4) years. After the initial appointment, the governor shall appoint members to serve in office for a term of four (4) years commencing on July 1. A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term.

(3) The commission shall annually elect a chairman and a vice chairman from their membership. Such officers shall hold their respective offices until their successors are elected. If a vacancy occurs in either office, the commission shall elect a member to fill such office for the remainder of the term.

(4) The commission shall meet at least annually and thereafter on dates set by the commission. A majority of the voting members shall constitute a quorum.

(5) The members of the commission shall be compensated as provided in section 59-509(n), Idaho Code.

(6) Unless the commission appoints another person to be the secretary of the commission, the director of the department of lands shall be the secretary of the commission.

(7) The commission may employ personnel as may be deemed necessary, prescribe their duties and fix their compensation. In the alternative, the commission may contract with the department of lands for services.

1 (8) The commission shall have and is hereby given jurisdiction and  
2 authority over all persons and property, public and private, necessary to  
3 enforce the provisions of this act, and shall have power and authority to  
4 make and enforce rules, regulations and orders, and do whatever may reason-  
5 ably be necessary to carry out the provisions of this act. Any delegation  
6 of authority to any other state officer, board or commission to administer  
7 any and all other laws of this state relating to the conservation of oil and  
8 gas is hereby rescinded and withdrawn and such authority is hereby unquali-  
9 fiedly conferred upon the commission, as herein provided. Any person, or the  
10 attorney general, on behalf of the state, may apply for a hearing before the  
11 commission, or the commission may initiate proceedings, upon any question  
12 relating to the administration of this act, and jurisdiction is hereby con-  
13 ferred upon the commission to hear and determine the same and enter its rule,  
14 regulation or order with respect thereto. The commission may designate  
15 hearing officers who shall have the power and authority to conduct hearings  
16 in the name of the commission at any time and place in accordance with the  
17 provisions of chapter 52, title 67, Idaho Code.

18 (9) It is the intent of the legislature to occupy the field of the regu-  
19 lation of oil and gas exploration and production with the limited exception  
20 of the exercise of planning and zoning authority granted cities and counties  
21 pursuant to chapter 65, title 67, Idaho Code.

22 (10) To implement the purpose of the oil and gas conservation act, and  
23 to advance the public interest in the orderly development of the state's oil  
24 and gas resources, while at the same time recognizing the responsibility of  
25 local governments to protect the public health, safety and welfare, it is  
26 herein provided that:

27 (a) The commission will notice the respective city or county with ju-  
28 risdiction upon receipt of an application and will remit, electroni-  
29 cally, a copy of all application materials.

30 (b) No ordinance, resolution, requirement or standard of a city, county  
31 or political subdivision, except a state agency with authority, shall  
32 actually or operationally prohibit the extraction of oil and gas; pro-  
33 vided however, that extraction may be subject to reasonable local ordi-  
34 nance provisions, not repugnant to law, which protect public health,  
35 public safety, public order or which prevent harm to public infrastruc-  
36 ture or degradation of the value, use and enjoyment of private property.  
37 Any ordinance regulating extraction enacted pursuant to chapter 65,  
38 title 67, Idaho Code, shall provide for administrative permitting un-  
39 der conditions established by ordinance, not to exceed twenty-one (21)  
40 days, unless extended by agreement of the parties or upon good cause  
41 shown.

42 (c) No ordinance, resolution, requirement or standard of a city, county  
43 or political subdivision, except a state agency with authority, shall  
44 actually or operationally prohibit construction or operation of facil-  
45 ities and infrastructure needed for the post-extraction processing and  
46 transport of gas and oil. However, such facilities and infrastructure  
47 shall be subject to local ordinances, regulations and permitting re-  
48 quirements, not repugnant to law, as provided in chapter 65, title 67,  
49 Idaho Code.

1           (11) The commission may sue and be sued in its administration of this  
2 act in any state or federal district court in the state of Idaho having juris-  
3 diction of the parties or of the subject matter.

4           (12) The attorney general shall act as the legal advisor of the commis-  
5 sion and represent the commission in all court proceedings and in all pro-  
6 ceedings before it, and in any proceeding to which the commission may be a  
7 party before any department of the federal government.