Second Regular Session
Sixty-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 02-0202.01 Bart Miller **HOUSE BILL** 02-1075

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

CONCERNING THE PROCEDURE FOR CONDUCTING SUNRISE AND SUNSET REVIEWS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Makes the following changes to the general assembly's sunrise and sunset review process:

- In place of the current practice in which house and senate committees of reference conduct sunrise and sunset review in alternating years, requires the speaker of the house of representatives and the president of the senate to designate one or more joint committees of reference to conduct sunrise and sunset reviews during the interim between

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.

regular sessions of the general assembly;

- Requires such joint committees of reference to be composed of members of committees of reference of each house of the general assembly;
- Specifies that the committees of reference composing the joint committees of reference be the committees of reference for sunset bills reviewed by the joint committees;
- Specifies that bills recommended for consideration by a joint committee of reference shall be sponsored by a house and senate member of the joint committee of reference making the recommendation as assigned by the speaker of the house of representatives and the president of the senate;
- Requires sunrise and sunset reports from the department of regulatory agencies to be submitted to the office of legislative legal services and the general assembly by September 30 of each year;
- Requires a $2,500 fee for sunrise applications;
- Requires approval by a joint committee of reference prior to the introduction of any sunrise bill;
- Exempts from public disclosure that portion of a report to a joint committee of reference that contains recommendations and comments that are to be made public only with the approval of a majority of the committee.
- Makes conforming amendments to reflect that joint committees of reference will conduct sunrise and sunset reviews rather than committees of reference of each house in alternating years.

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

SECTION 1. 2-2-307 (3) (a) (IV), Colorado Revised Statutes, is amended to read:

2-2-307. Compensation of members - reimbursement of expenses. (3) (a) When the general assembly is in recess for more than three days or is not in session, in addition to the base compensation specified in subsection (1) of this section, the following members of the general assembly shall be entitled to the further sum of ninety-nine dollars per day for necessary attendance at meetings or functions or to legislative matters as follows:

(IV) (A) Except as provided in sub-subparagraph (B) of this subparagraph (IV), any member of a JOINT committee of reference designated pursuant to section 2-3-1201 OR OF A COMMITTEE OF REFERENCE who attends a meeting of the JOINT committee of reference or THE COMMITTEE OF REFERENCE OR who attends a meeting of the joint budget committee when it is considering matters for which the member's JOINT COMMITTEE OF REFERENCE OR committee of reference has oversight responsibility, or, with the approval of the chairperson, who attends a state function or a function at a state institution or state agency at which matters concerning the committee are considered. The executive committee of the legislative council may establish guidelines for the payment of per diem to members of a JOINT COMMITTEE OF REFERENCE OR A committee of reference who attend meetings of the joint budget committee as allowed by this subparagraph (IV).

(B) If a member of the current general assembly is appointed when the general assembly is in recess for more than three days or is not in session to serve on a JOINT COMMITTEE OF REFERENCE OR A committee of reference for the next regular session of the general assembly, such member shall thereafter only be entitled to compensation pursuant to this subparagraph (IV) as a member of a JOINT COMMITTEE OF REFERENCE OR A committee of reference upon which the member has been appointed to serve during the next regular session of the general assembly and shall not be entitled to compensation pursuant to this subparagraph (IV) as a member of a JOINT COMMITTEE OF REFERENCE OR A committee of reference upon which the member served during the most recently completed regular session of the general assembly but upon which the member is not appointed to serve during the next regular session of the

general assembly.

(C) For purposes of this subparagraph (IV), "member" includes an appointee to a JOINT COMMITTEE OF REFERENCE OR A committee of reference designated by the appointing authority as provided by the applicable rules of the house of representatives and senate respectively prior to the convening of the general assembly at which such member is to serve, whether such appointee is a member of the then current general assembly or member-elect of the next general assembly, or both.

SECTION 2. 2-3-1201 (1), Colorado Revised Statutes, is amended to read:

2-3-1201. Sunrise and sunset review - designation of joint committees of reference to conduct review. (1) At the convening of the first regular session of each general assembly, the speaker of the house of representatives and the president of the senate shall each designate one or more ~~house~~ JOINT committees of reference ~~for even-numbered years and one or more senate committees of reference for odd-numbered years~~ to perform the duties and functions assigned to it relating to the termination of each division, board, or agency pursuant to the provisions of section 24-34-104, C.R.S., and the duties and functions assigned to it by this part 12 relating to the sunset review of advisory committees. The JOINT committees of reference SHALL BE designated by the speaker of the house of representatives ~~to conduct reviews under this section in even-numbered years and the committees of reference designated by~~ AND the president of the senate to conduct such reviews. ~~in odd-numbered years~~ THE RESPECTIVE COMMITTEES COMPOSING THE JOINT COMMITTEE OF REFERENCE shall ALSO be the committees of reference for any bills introduced under sections 2-3-1203 and 24-34-104, C.R.S., during any

regular or extraordinary session of the general assembly. The speaker of the house of representatives ~~may~~ AND THE PRESIDENT OF THE SENATE SHALL authorize one or more ~~house~~ JOINT committees of reference ~~and the president of the senate may authorize one or more senate committees of reference~~ to conduct hearings prior to the convening of any regular session of the general assembly. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE SHALL AGREE ON AND ASSIGN SUNSET REVIEWS TO THE APPROPRIATE JOINT COMMITTEES OF REFERENCE, WITH THE SPEAKER APPOINTING FIVE MEMBERS FROM THE COMMITTEE OF REFERENCE IN THE HOUSE AND THE PRESIDENT APPOINTING FIVE MEMBERS FROM THE COMMITTEE OF REFERENCE IN THE SENATE TO SERVE ON THE JOINT COMMITTEES.

SECTION 3. 2-3-1202, Colorado Revised Statutes, is amended to read:

2-3-1202. Staff assistance. In carrying out duties under section 24-34-104, C.R.S., and this part 12, any JOINT committee designated pursuant to section 2-3-1201 may request staff assistance from the legislative council, created by part 3 of this article.

SECTION 4. 2-3-1203 (2) (a), (2) (b) (III), (2) (c), (2) (d), and (2) (e), Colorado Revised Statutes, are amended to read:

2-3-1203. Sunset review of advisory committees. (2) (a) A JOINT legislative committee of reference designated pursuant to section 2-3-1201 shall consider whether to continue or to continue with modification any advisory committee ~~which~~ THAT is scheduled to have its statutory authorization repealed and may recommend the consideration of a bill as it deems necessary to effect such continuation.

(b) (III) The department of regulatory agencies shall conduct an

analysis and evaluation of the performance of each division, board, or agency or each function scheduled for termination under this section. The department of regulatory agencies shall submit a report containing such analysis and evaluation to the office of legislative legal services by ~~October 15~~ SEPTEMBER 30 of the year preceding the date established for termination.

(c) A JOINT legislative committee of reference designated pursuant to section 2-3-1201 shall conduct hearings for each advisory committee that submits the information required by paragraph (b) of this subsection (2) DURING THE INTERIM PERIOD PRECEDING EACH REGULAR SESSION OF THE GENERAL ASSEMBLY.

(d) ~~A bill recommended for consideration under this subsection (2) shall be introduced in the house of representatives in even-numbered years and in the senate in odd-numbered years.~~

(e) A bill recommended for consideration under this subsection (2) shall BE SPONSORED BY A HOUSE AND SENATE MEMBER OF THE JOINT COMMITTEE OF REFERENCE MAKING THE RECOMMENDATION, BUT SHALL not be counted against the number of bills to which the ~~sponsor is~~ SPONSORS ARE limited by any law or joint rule of the senate and house of representatives.

SECTION 5. 24-34-104 (8) (a) (I), (8) (a) (II), (9) (a), (9) (c), (9) (c.3), (9) (d), and (21.1), Colorado Revised Statutes, are amended to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (8) (a) (I) The department of regulatory agencies shall conduct an analysis and evaluation of the performance of each division, board, or agency or each function scheduled for termination under this section. In

conducting the analysis and evaluation, the department of regulatory agencies shall take into consideration, but need not be limited to considering, the factors listed in paragraph (b) of subsection (9) of this section. The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than ~~October 15~~ SEPTEMBER 30 of the year preceding the date established for termination, and a copy of said report shall be made available to each member of the general assembly. ALL SUCH REPORTS SHALL BE OPEN TO PUBLIC INSPECTION EXCEPT FOR THAT PORTION OF ANY REPORT CONTAINING RECOMMENDATIONS AND COMMENTS WHICH IS RELEASED ONLY UPON APPROVAL OF A MAJORITY VOTE OF THE JOINT COMMITTEE OF REFERENCE.

(II) ~~The department of regulatory agencies shall submit its report to the office of legislative legal services for the preparation of draft legislation based solely on specific recommendations for legislation contained in such report. Such report shall be submitted, no later than October 15 of the year preceding the date established for termination, to the office of legislative legal services for the preparation of draft legislation. Such draft legislation shall be prepared by the office of legislative legal services prior to the next regular session of the general assembly for the committee of reference designated pursuant to section 2-3-1201, C.R.S., and shall be submitted with the report of the department of regulatory agencies by the office of legislative legal services to the committee of reference designated pursuant to section 2-3-1201, C.R.S. The committee of reference designated pursuant to section 2-3-1201, C.R.S., shall determine the title of any legislation drafted pursuant to this subparagraph (II).~~

(9) (a) Prior to the termination, continuation, or reestablishment of an agency or function, AND DURING THE INTERIM PERIOD PRECEDING EACH REGULAR SESSION, a JOINT legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., shall hold public hearings. ~~to receive testimony from the public, the executive director of the department of regulatory agencies, and the agencies involved~~ AT SUCH HEARINGS, THE JOINT LEGISLATIVE COMMITTEE OF REFERENCE SHALL CONSIDER THE REPORT PROVIDED BY THE DEPARTMENT OF REGULATORY AGENCIES AND RECEIVE ANY TESTIMONY FROM THE PUBLIC, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, AND THE AGENCIES INVOLVED. BASED ON SUCH INFORMATION, THE JOINT LEGISLATIVE COMMITTEE OF REFERENCE SHALL CONSIDER THE FACTORS AND TESTIMONY SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (9) AND DETERMINE WHETHER AN AGENCY OR FUNCTION SHOULD BE TERMINATED, CONTINUED, OR REESTABLISHED, AND WHETHER ITS FUNCTIONS SHOULD BE REVISED AND, IF DEEMED ADVISABLE, RECOMMEND THE CONSIDERATION OF A PROPOSED BILL TO CARRY OUT ITS RECOMMENDATIONS. In such hearing, each agency shall have the burden of demonstrating a public need for continued existence of the agency or function and that its regulation is the least restrictive regulation consistent with the public interest.

(c) ~~A legislative committee of reference that conducts a review pursuant to paragraph (a) of this subsection (9) shall determine whether each agency or function should be terminated, continued, or reestablished and whether its functions should be revised and, if deemed advisable, may recommend the consideration of a proposed bill to carry out its recommendations.~~

(c.3) (I) ~~Bills recommended for consideration pursuant to paragraph (c) of this subsection (9) shall be introduced in the house of representatives in even numbered years and in the senate in odd numbered years. The chair of each legislative committee of reference that recommends a bill for consideration shall assign the proposed bill to the following for sponsorship; except that no more than two such bills shall be assigned to any one member of the general assembly:~~

~~(A) Members of the committee of reference; or~~

~~(B) Members of the general assembly who are not members of the committee if approved by a majority vote of the committee's members.~~

(II) The speaker of the house of representatives shall assign the proposed bill to a representative ON THE JOINT COMMITTEE OF REFERENCE for sponsorship in the house of representatives ~~in odd numbered years.~~ AND the president of the senate shall assign the proposed bill to a senator ON THE JOINT COMMITTEE OF REFERENCE for sponsorship in the senate; ~~in even numbered years;~~ EXCEPT THAT NO MORE THAN TWO SUCH BILLS SHALL BE ASSIGNED TO ANY ONE MEMBER OF THE GENERAL ASSEMBLY.

(d) ~~Prior to the termination, continuation, reestablishment, or revision of an agency's functions, a committee of reference in each house of the general assembly designated pursuant to section 2-3-1201, C.R.S., shall hold a public hearing to consider the report provided by the department of regulatory agencies and any bill recommended for consideration pursuant to paragraph (c) of this subsection (9), said hearing to include the factors and testimony set forth in paragraph (b) of this subsection (9).~~

(21.1) The Colorado manufactured housing licensing board, created by article 51.5 of title 12, C.R.S., was repealed, effective July 1,

1992. However, a JOINT legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., has continuing jurisdiction and may exercise discretion to review and recommend reestablishment of such board.

SECTION 6. The introductory portion to 24-34-104.1 (2) and 24-34-104.1 (3) and (6), Colorado Revised Statutes, are amended to read:

24-34-104.1. General assembly sunrise review of new regulation of occupations and professions. (2) Any professional or occupational group or organization, any individual, or any other interested party ~~which~~ THAT proposes the regulation of any unregulated professional or occupational group shall ~~submit the following information to the department of regulatory agencies no later than July 1 of any year.~~ PAY TO THE DEPARTMENT OF REGULATORY AGENCIES AN APPLICATION FEE IN THE AMOUNT OF TWO THOUSAND FIVE HUNDRED DOLLARS, WHICH FEE SHALL BE TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE GENERAL FUND. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE FROM THE GENERAL FUND TO THE OFFICE OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES AN AMOUNT EQUIVALENT TO THE FEES COLLECTED IN THE PRIOR FISCAL YEAR UNDER THIS SUBSECTION (2) FOR PURPOSES OF PARTIALLY DEFRAYING THE COSTS OF THE ADMINISTRATION OF THE SUNRISE PROCESS UNDER THIS SECTION. A proposal to regulate a professional or occupational group shall be reviewed only when the party requesting such review files with the department a statement of support for the proposed regulation ~~which~~ THAT has been signed by at least ten members of the professional or occupational group for which regulation is being sought or at least ten individuals who are not members of such professional or occupational

group, along with the following information, no later than July 1 of any year:

(3) The department of regulatory agencies shall conduct an analysis and evaluation of the proposed regulation. The analysis and evaluation shall be based upon the criteria listed in paragraph (b) of subsection (4) of this section. The department of regulatory agencies shall submit a report ~~to the proponents of such regulation and~~ to the general assembly no later than ~~October 15~~ SEPTEMBER 30 of the year following the year in which the proposed regulation was submitted. ALL SUCH REPORTS SHALL BE OPEN TO PUBLIC INSPECTION EXCEPT FOR THAT PORTION OF ANY REPORT CONTAINING RECOMMENDATIONS AND COMMENTS WHICH IS RELEASED ONLY UPON APPROVAL OF A MAJORITY VOTE OF A JOINT COMMITTEE OF REFERENCE DESIGNATED PURSUANT TO SECTION 2-3-1201, C.R.S.

(6) WHEN A JOINT COMMITTEE OF REFERENCE APPROVES OF THE REGULATION OF A PROFESSIONAL OR OCCUPATIONAL GROUP, the supporters of regulation of ~~a~~ SUCH professional or occupational group may request members of the general assembly to present appropriate legislation to the general assembly during each of the two regular sessions that immediately succeed the date of ~~the report required pursuant to subsection (3) of this section without the supporters having to comply again with the provisions of subsections (2), (3), and (4) of this section~~ SUCH APPROVAL. Bills introduced pursuant to this subsection (6) shall count against the number of bills to which members of the general assembly are limited by any joint rule of the senate and the house of representatives. The general assembly shall not consider the regulation of more than five occupations or professions in any one session of the

general assembly.

SECTION 7. 24-34-104.1 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

24-34-104.1. General assembly sunrise review of new regulation of occupations and professions. (4) (a.5) AFTER RECEIVING THE REPORT REQUIRED BY SUBSECTION (3) OF THIS SECTION AND PRIOR TO THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY, A JOINT COMMITTEE OF REFERENCE DESIGNATED AS PROVIDED IN SECTION 2-3-1201, C.R.S., SHALL CONDUCT PUBLIC HEARINGS TO RECEIVE TESTIMONY FROM THE PUBLIC, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, AND THE GROUP, ORGANIZATION, OR INDIVIDUAL THAT SUBMITTED THE PROPOSAL FOR REGULATION.

(c.5) THE JOINT COMMITTEE OF REFERENCE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY. SUCH REPORT SHALL INCLUDE A FINDING AS TO WHETHER REGULATION OF EACH OCCUPATION OR PROFESSION IS NECESSARY FOR THE PUBLIC HEALTH AND SAFETY AND, IF REGULATION IS DEEMED NECESSARY, THE COMMITTEE'S RECOMMENDATIONS AS TO WHAT IS THE LEAST RESTRICTIVE TYPE OF REGULATION CONSISTENT WITH THE PUBLIC INTEREST.

SECTION 8. 12-36-106 (3) (o), Colorado Revised Statutes, is amended to read:

12-36-106. Practice of medicine defined - exemptions from licensing requirements - repeal. (3) Nothing in this section shall be construed to prohibit, or to require a license under this article with respect to, any of the following acts:

(o) (I) The administration and monitoring of medications in facilities as provided in section 25-1-107 (1) (ee), C.R.S.

(II) This paragraph (o) is repealed, effective July 1, 2009. Prior to such repeal, the exemption to licensure requirement set forth in this paragraph (o) shall be subject to review by a JOINT legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S., and the provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the operation of the program specified in this paragraph (o).

SECTION 9. 12-38-125 (1) (h), Colorado Revised Statutes, is amended to read:

12-38-125. Exclusions - repeal. (1) No provision of this article shall be construed to prohibit:

(h) (I) The administration and monitoring of medications in facilities pursuant to section 25-1-107 (1) (ee), C.R.S.

(II) This paragraph (h) is repealed, effective July 1, 2009. Prior to such repeal, the exclusion set forth in this paragraph (h) shall be subject to review by a JOINT legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S., and the provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the operation of the program specified in this paragraph (h).

SECTION 10. The introductory portion to 24-34-901 (1) and 24-34-901 (1) (b), Colorado Revised Statutes, are amended to read:

24-34-901. Proposed continuing education requirements for regulated occupations and professions - review by office of executive director. (1) Before any bill is introduced in the general assembly that contains, or any bill is amended to contain, a mandatory continuing education requirement for any occupation or profession, the practice of which requires a state of Colorado license, certificate, or registration, the group or association proposing such mandatory continuing education requirement shall first submit information concerning the need for such a requirement to the office of the executive director of the department of regulatory agencies BY JULY 1 OF THE YEAR PRECEDING THE SESSION DURING WHICH THE BILL IS INTRODUCED. The executive director shall impartially review such evidence, analyze and evaluate the proposal, and report in writing to the general assembly WITHIN THIRTY DAYS AFTER RECEIPT OF A PROPOSAL whether mandatory continuing education would likely protect the public served by the practitioners. Proposals may include, but need not be limited to: Information that shows that the knowledge base for the profession or occupation is changing; that mandatory continuing education of this profession or occupation is required in other states; if applicable, that any independent studies have shown that mandatory continuing education is effective in assuring the competency of practitioners. The proposal may also include any assessment tool that shows the effectiveness of mandatory continuing education and recommendations about sanctions that should be included for noncompliance with the requirement of mandatory continuing education. The provisions of this section shall not be applicable to:

(b) Any bill that is introduced as a result of a JOINT legislative ~~interim~~ committee OF REFERENCE DESIGNATED PURSUANT TO SECTION

2-3-1201, C.R.S., and that as introduced in the general assembly includes a mandatory continuing education requirement.

SECTION 11. 25-1-107 (1) (ee) (VI) (B), Colorado Revised Statutes, is amended to read:

25-1-107. Powers and duties of the department - repeal. (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(ee) (VI) (B) Prior to such repeal, the program established by this paragraph (ee) shall be subject to review by a JOINT legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S., and the provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the operation of the program specified in this paragraph (ee). Such review shall include an examination of the regulatory process that governs facilities using trained but unlicensed persons to monitor and administer medication.

SECTION 12. 25-7-109.2 (6), Colorado Revised Statutes, is amended to read:

25-7-109.2. Small business stationary source technical and environmental compliance assistance program - repeal. (6) The general assembly finds, determines, and declares that this section is enacted for purposes of compliance with the provisions of section 507 of the federal act. Subsections (2), (3), and (4) of this section and this subsection (6) are repealed, effective July 1, 2007. Prior to said repeal, the compliance advisory panel shall be reviewed by a JOINT legislative committee of reference, designated pursuant to section 2-3-1201, C.R.S.,

to conduct the review pursuant to section 24-34-104, C.R.S.

SECTION 13. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.