

First Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 03-0925.01 Thomas Morris

SENATE BILL 03-232

SENATE SPONSORSHIP

Chlouber

HOUSE SPONSORSHIP

(None)

Senate Committees

State Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING THE OFFICE OF CONSUMER COUNSEL.

Bill Summary

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

Repeals the office of consumer counsel and the utility consumers' board. Makes conforming amendments.

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

2 **SECTION 1. Repeal.** Article 6.5 of title 40, Colorado Revised

3 Statutes, is repealed.

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.

1 **SECTION 2. Repeal.** 24-1-122 (2) (a.5), Colorado Revised
2 Statutes, is repealed as follows:

3 **24-1-122. Department of regulatory agencies - creation.**

4 (2) The department of regulatory agencies shall consist of the following
5 divisions:

6 (a.5) ~~The office of consumer counsel and the utility consumers'~~
7 ~~board, created by article 6.5 of title 40, C.R.S. The office of consumer~~
8 ~~counsel and its powers, duties, and functions are transferred by a **type 1**~~
9 ~~transfer to the department of regulatory agencies as a division thereof.~~
10 ~~The utility consumers' board shall exercise its powers and perform its~~
11 ~~duties and functions under the department as if the same were transferred~~
12 ~~to the department by a **type 1** transfer and allocated to the office of~~
13 ~~consumer counsel.~~

14 **SECTION 3. Repeal.** 24-34-104 (39) (b) (I) and (39) (b) (II),
15 Colorado Revised Statutes, are repealed as follows:

16 **24-34-104. General assembly review of regulatory agencies and**
17 **functions for termination, continuation, or reestablishment.**

18 (39) (b) The following agencies, functions, or both, shall terminate on
19 July 1, 2008:

20 (I) ~~The utility consumers' board, created in article 6.5 of title 40,~~
21 ~~C.R.S.;~~

22 (II) ~~The office of consumer counsel, created in article 6.5 of title~~
23 ~~40, C.R.S.;~~

24 **SECTION 4.** 40-2-114, Colorado Revised Statutes, is amended
25 to read:

26 **40-2-114. Disposition of fees collected.** All fees collected under
27 section 40-2-113 by the department of revenue shall be remitted to the

1 state treasurer and credited ~~by him~~ as follows: Three percent to the
2 general fund and ninety-seven percent to the public utilities commission
3 fixed utility fund, which fund is hereby created and shall be expended
4 only to defray the full amount determined by the general assembly for the
5 administrative expenses of the commission for the supervision and
6 regulation of the public utilities paying such fees. ~~and for the financing~~
7 ~~of the office of consumer counsel created in article 6.5 of this title.~~ Any
8 unexpended balance remaining in said fund at the end of any fiscal year
9 shall be retained by the state treasurer to defray such administrative
10 expenses of the commission during subsequent fiscal years, and the
11 executive director of the department of revenue shall take any such
12 unexpended balance into account when computing the percentage upon
13 which fees for the ensuing fiscal year shall be based.

14 **SECTION 5.** 40-2-122 (3) (c) (XI), (5), and (10), Colorado
15 Revised Statutes, are amended to read:

16 **40-2-122. Natural gas - deregulation of supply - voluntary**
17 **separation of service offerings - consumer protection - legislative**
18 **declaration.** (3) (c) The commission shall not approve a plan submitted
19 pursuant to paragraph (a) of this subsection (3) unless the price charged
20 for natural gas delivery services does not subsidize natural gas supply
21 service under the plan and, in addition, the plan:

22 (XI) Provides for funding of the commission ~~and the office of~~
23 ~~consumer counsel~~ based upon a charge to end-use customers, as
24 determined by the commission, as a part of the natural gas delivery
25 function, regardless of the identity of the natural gas supplier. Such new
26 funding method shall be competitively neutral and shall be designed to
27 generate annual revenues equivalent to the average annual revenues

1 generated under sections 40-2-109 to 40-2-114 during calendar years
2 1994 to 1998 associated with the sale of natural gas service from the
3 geographic area or group of customers affected by the plan. Whenever
4 such new funding method is instituted for any specific geographic area or
5 group of customers, the natural gas public utilities serving such area or
6 group shall no longer pay the fees that would otherwise have been
7 required under said sections.

8 (5) The department of revenue is hereby authorized to collect
9 funding for the commission ~~and the office of consumer counsel~~ in
10 accordance with subparagraph (XI) of paragraph (c) of subsection (3) of
11 this section.

12 (10) The general assembly determines that a new funding formula
13 should be devised to adequately fund the commission's ~~and office of~~
14 ~~consumer counsel's~~ administrative expenses. On or before December 1,
15 2000, the commission ~~and the office of consumer counsel~~ shall
16 recommend to the general assembly those legislative changes needed to
17 develop appropriate funding mechanisms for the public utilities
18 commission. ~~and the office of consumer counsel~~. This provision is
19 intended to provide a comprehensive replacement for the funding method
20 contained in the utility plan under subparagraph (XI) of paragraph (c) of
21 subsection (3) of this section.

22 **SECTION 6.** 40-3-104.3 (1) (b) and (1) (e), Colorado Revised
23 Statutes, are amended to read:

24 **40-3-104.3. Manner of regulation - competitive responses.**

25 (1) (b) Following a notice period of five days after the filing of an
26 application under this section, the commission shall approve or deny the
27 application within thirty days. All applications filed with the commission

1 pursuant to this section shall be placed at the head of the commission's
2 docket and shall be disposed of promptly within the time periods set forth
3 in this paragraph (b); except that, for good cause shown, the commission
4 may extend the period in which it must act for an additional fifteen days,
5 or, in extraordinary circumstances, including but not limited to the
6 existence of numerous pending applications under this section, the
7 commission may extend the period in which it must act for an additional
8 thirty days beyond the fifteen days provided for in this paragraph (b).
9 Whenever such application is continued as provided in this paragraph (b),
10 the commission shall enter an order making such continuance and stating
11 fully the facts necessitating the continuance. If the commission has not
12 approved or denied any such application within the time periods set forth
13 in this paragraph (b), the application shall be deemed approved. If the
14 commission denies any such application for approval within the permitted
15 period, the subject contract shall not become effective. Any contract
16 submitted pursuant to this section shall be filed under seal and treated as
17 confidential by the commission; except that at the time the applicant files
18 an application or contract with the commission, the applicant shall also
19 furnish a copy of the application to any public utility then providing
20 electric, gas, or steam service in the state of Colorado to the customer.
21 ~~and also furnish a copy to the office of consumer counsel, and the office~~
22 ~~of consumer counsel shall also treat said contract as confidential.~~

23 (e) Within ten days after the execution of such contract, the public
24 utility shall file with the commission under seal and as a confidential
25 document the final contract or other description of the price and terms of
26 service, together with any additional information required by the
27 commission. ~~The applicant shall also furnish a copy of such information~~

1 ~~to the office of consumer counsel, who shall treat the information as~~
2 ~~confidential.~~ The commission shall have no authority to disapprove the
3 contract if the contract complies with the conditions contained in
4 paragraph (a) of this subsection (1), but the commission may consider the
5 contract for general regulatory purposes and to ensure compliance with
6 the requirements of this section.

7 **SECTION 7. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.