

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 09-0613.01 Troy Bratton

SENATE BILL 09-101

SENATE SPONSORSHIP

White,

HOUSE SPONSORSHIP

Levy,

Senate Committees
Local Government and Energy

House Committees
Local Government

HOUSE
3rd Reading Unamended
March 30, 2009

HOUSE
Amended 2nd Reading
March 26, 2009

SENATE
3rd Reading Unamended
February 17, 2009

SENATE
Amended 2nd Reading
February 13, 2009

A BILL FOR AN ACT

101 **CONCERNING THE REQUIREMENT FOR THE CREATION OF AN**
102 **INDEPENDENT HISTORIC PRESERVATION COMMISSION BY ANY**
103 **CITY RECEIVING MONEYS FROM THE STATE HISTORICAL FUND**
104 **FOR HISTORIC PRESERVATION PURPOSES WHEN THE CITY IS NOT**
105 **A CERTIFIED LOCAL GOVERNMENT, AND, IN CONNECTION**
106 **THEREWITH, ESTABLISHING THE COMPOSITION AND OPERATION**
107 **OF SUCH A COMMISSION.**

Bill Summary

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

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.

Prohibits the governing body of any city receiving moneys from the state historical fund for historic preservation and restoration purposes that is not a certified local government as defined in federal law (city) from expending such moneys. Requires the governing body of the city to create an independent restoration and preservation commission (commission) to expend such moneys.

Establishes the composition and operation of a commission.

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

2 **SECTION 1.** 12-47.1-103, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SUBSECTION to read:

4 **12-47.1-103. Definitions.** As used in this article, unless the
5 context otherwise requires:

6 (4.5) "CERTIFIED LOCAL GOVERNMENT" MEANS ANY LOCAL
7 GOVERNMENT CERTIFIED BY THE STATE HISTORIC PRESERVATION OFFICER
8 PURSUANT TO THE PROVISIONS OF 16 U.S.C. SEC. 470a (c) (1).

9 **SECTION 2.** 12-47.1-1202 (3), Colorado Revised Statutes, is
10 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

11 **12-47.1-1202. Expenditures from the state historical fund -**
12 **legislative declaration.** (3) The governing bodies of the cities of
13 Central, Black Hawk, and Cripple Creek shall not expend moneys from
14 their twenty percent portion of the state historical fund unless they have
15 adopted standards for distribution of grants from that portion of the fund.
16 At a minimum, such standards shall include the following:

17 (a.5) A REQUIREMENT THAT THE CITY IS A CERTIFIED LOCAL
18 GOVERNMENT, AS DEFINED IN SECTION 12-47.1-103 (4.5);

19 **SECTION 3.** 12-47.1-1202, Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW SUBSECTION to read:

21 **12-47.1-1202. Expenditures from the state historical fund -**
22 **legislative declaration.** (5) THE GOVERNING BODY OF A CITY THAT IS

1 NOT A CERTIFIED LOCAL GOVERNMENT PURSUANT TO PARAGRAPH (a.5) OF
2 SUBSECTION (3) OF THIS SECTION AND THAT RECEIVES MONEYS FROM THE
3 STATE HISTORICAL FUND FOR HISTORIC PRESERVATION PURPOSES SHALL
4 NOT EXPEND SUCH MONEYS BUT INSTEAD SHALL CREATE AN INDEPENDENT
5 RESTORATION AND PRESERVATION COMMISSION FOR THE PURPOSE OF
6 EXPENDING THE MONEYS IN ACCORDANCE WITH PART 17 OF THIS ARTICLE.

7 **SECTION 4.** Article 47.1 of title 12, Colorado Revised Statutes,
8 is amended BY THE ADDITION OF A NEW PART to read:

9 **PART 17**
10 **INDEPENDENT RESTORATION AND**
11 **PRESERVATION COMMISSION**

12 **12-47.1-1701. Definitions.** AS USED IN THIS PART 17, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

14

15 (1) "CITY" MEANS A CITY THAT IS NOT A CERTIFIED LOCAL
16 GOVERNMENT AS DEFINED IN SECTION 12-47.1-103 (4.5) AND THAT
17 RECEIVES MONEYS FROM THE STATE HISTORICAL FUND FOR HISTORIC
18 PRESERVATION PURPOSES.

19 (2) "COMMISSION" MEANS AN INDEPENDENT RESTORATION AND
20 PRESERVATION COMMISSION CREATED PURSUANT TO SECTION
21 12-47.1-1202 (5).

22 **12-47.1-1702. Independent restoration and preservation**
23 **commission - appointments - qualifications - new appointments -**
24 **appointments without nominations.** (1) PURSUANT TO SECTION
25 12-47.1-1202 (5), THE GOVERNING BODY OF A CITY SHALL CREATE AN
26 INDEPENDENT RESTORATION AND PRESERVATION COMMISSION. THE
27 GOVERNING BODY SHALL APPOINT SEVEN MEMBERS TO THE COMMISSION

1 AS FOLLOWS:

2 (a) TWO PERSONS WHO ARE ARCHITECTS SHALL BE APPOINTED
3 FROM NOMINEES SUBMITTED BY THE COLORADO CHAPTER OF THE
4 AMERICAN INSTITUTE OF ARCHITECTS OR ANY SUCCESSOR ORGANIZATION.

5 (b) TWO PERSONS WHO ARE EXPERTS IN HISTORIC PRESERVATION
6 SHALL BE APPOINTED FROM NOMINEES SUBMITTED BY THE COLORADO
7 HISTORICAL SOCIETY.

8 (c) TWO PERSONS WHO SHALL EACH HAVE A DEGREE IN EITHER
9 URBAN PLANNING OR LANDSCAPE ARCHITECTURE SHALL BE APPOINTED
10 FROM NOMINEES SUBMITTED BY THE COLORADO CHAPTER OF THE
11 AMERICAN PLANNING ASSOCIATION OR ANY SUCCESSOR ORGANIZATION.

12 (d) ONE PERSON WHO IS A MEMBER OF THE COMMUNITY SHALL BE
13 APPOINTED DIRECTLY BY THE GOVERNING BODY OF THE CITY.

14 (2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE
15 GOVERNING BODY OF THE CITY SHALL GIVE DUE CONSIDERATION TO
16 MAINTAINING A BALANCE OF INTERESTS AND SKILLS IN THE COMPOSITION
17 OF THE COMMISSION AND TO THE INDIVIDUAL QUALIFICATIONS OF THE
18 CANDIDATES, INCLUDING THEIR TRAINING, EXPERIENCE, AND KNOWLEDGE
19 IN THE AREAS OF ARCHITECTURE, LANDSCAPE ARCHITECTURE, THE
20 HISTORY OF THE COMMUNITY, REAL ESTATE, LAW, AND URBAN PLANNING.

21 (3) AT ANY TIME THAT THE TERM OF OFFICE OF A MEMBER OF THE
22 COMMISSION IS DUE TO EXPIRE OR WHEN A MEMBER RESIGNS, THE
23 GOVERNING BODY OF THE CITY SHALL REQUEST AT LEAST TWO NOMINEES
24 FOR EACH SUCH OPENING FROM THE APPROPRIATE ENTITY LISTED IN
25 SUBSECTION (1) OF THIS SECTION; EXCEPT THAT NO SUCH REQUIREMENT
26 SHALL APPLY TO THE MEMBER OF THE COMMUNITY APPOINTED DIRECTLY
27 BY THE GOVERNING BODY. THE GOVERNING BODY SHALL MAKE THE

1 APPOINTMENTS FROM THE APPROPRIATE LIST OF NOMINATIONS.

2 (4) IF THE NOMINATIONS REQUIRED TO MAKE APPOINTMENTS OR TO
3 FILL VACANCIES HAVE NOT BEEN RECEIVED BY THE GOVERNING BODY OF
4 THE CITY _____ WITHIN FORTY-FIVE DAYS AFTER A WRITTEN REQUEST FOR
5 THE REQUIRED LIST HAS BEEN SENT TO THE NOMINATING ENTITY, THE
6 GOVERNING BODY MAY APPOINT MEMBERS OF THE COMMISSION WITHOUT
7 NOMINATIONS. HOWEVER, THE GOVERNING BODY SHALL GIVE
8 CONSIDERATION TO THE QUALIFICATIONS OF THE APPOINTEE AS IF SUCH
9 APPOINTEE WERE NOMINATED BY THE DESIGNATED NOMINATING ENTITY.

10 (5) MEMBERS OF THE COMMISSION SHALL BE APPOINTED BY AND
11 SHALL SERVE AT THE PLEASURE OF THE GOVERNING BODY OF THE CITY.
12 EACH MEMBER SHALL CONTINUE TO SERVE UNTIL THE MEMBER'S
13 SUCCESSOR HAS BEEN DULY APPOINTED PURSUANT TO SUBSECTION (1) OF
14 THIS SECTION AND IS ACTING, BUT NO SUCH PERIOD SHALL EXTEND MORE
15 THAN NINETY DAYS PAST THE EXPIRATION OF THE FIRST MEMBER'S TERM.
16 THE GOVERNING BODY SHALL DETERMINE THE LENGTH OF TERMS AND
17 WHETHER THE TERMS ARE STAGGERED.

18 **12-47.1-1703. Funding - compensation.** (1) COSTS ASSOCIATED
19 WITH THE OPERATION OF THE COMMISSION SHALL BE PAID FROM THE CITY'S
20 SHARE OF PRESERVATION AND RESTORATION MONEYS FROM THE STATE
21 HISTORICAL FUND.

22 (2) MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT
23 COMPENSATION. TO THE EXTENT AUTHORIZED BY THE GOVERNING BODY
24 OF THE CITY, MEMBERS OF THE COMMISSION MAY BE REIMBURSED FOR
25 ACTUAL AND NECESSARY EXPENSES INCURRED IN THE DISCHARGE OF THEIR
26 OFFICIAL DUTIES, INCLUDING AN ALLOWANCE FOR MILEAGE.

27 **12-47.1-1704. Officers - bylaws - rules.** (1) THE COMMISSION

1 SHALL ELECT A CHAIRPERSON AND SUCH OFFICERS AS IT MAY REQUIRE.

2 (2) THE COMMISSION SHALL MAKE AND ADOPT BYLAWS
3 GOVERNING ITS WORK.

4 (3) THE COMMISSION MAY ADOPT RULES AND REGULATIONS FOR
5 THE ADMINISTRATION AND ENFORCEMENT OF PART 12 OF THIS ARTICLE
6 AND THIS PART 17.

7 **12-47.1-1705. Meetings.** THE COMMISSION SHALL ACT ONLY AT
8 REGULARLY SCHEDULED SEMI-MONTHLY MEETINGS, WHICH SHALL BE
9 HELD AT A TIME DETERMINED BY THE GOVERNING BODY OF THE CITY, OR
10 AT MEETINGS OF WHICH NOT LESS THAN FIVE DAYS' NOTICE HAS BEEN
11 GIVEN. ABSENT THE OBJECTION OF ANY MEMBER, THE CHAIRPERSON MAY
12 CANCEL OR POSTPONE A REGULARLY SCHEDULED MEETING OF THE
13 COMMISSION.

14 **12-47.1-1706. Quorum - action.** NO OFFICIAL BUSINESS OF THE
15 COMMISSION SHALL BE CONDUCTED UNLESS A QUORUM OF NOT LESS THAN
16 FOUR MEMBERS IS PRESENT. THE CONCURRING VOTE OF AT LEAST FOUR
17 MEMBERS OF THE COMMISSION IS NECESSARY TO CONSTITUTE AN OFFICIAL
18 ACT OF THE COMMISSION.

19 **12-47.1-1707. Final agency action - judicial review.** ANY
20 OFFICIAL DECISION OF THE COMMISSION SHALL BE CONSIDERED FINAL
21 AGENCY ACTION AND SUBJECT TO JUDICIAL REVIEW IN A COURT OF
22 COMPETENT JURISDICTION. NO OFFICIAL DECISION OF THE COMMISSION
23 SHALL BE APPEALABLE TO OR REVIEWABLE BY THE GOVERNING BODY OF
24 THE CITY.

25 **SECTION 5. Effective date - applicability.** This act shall take
26 effect August 1, 2009, and shall apply to disbursements from the state
27 historical fund received on or after said date.

1 **SECTION 6. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.