

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0707.01 Kate Meyer

HOUSE BILL 11-1222

HOUSE SPONSORSHIP

Conti, Acree, Kerr J., Ramirez, Scott, Swalm, Swerdfeger

SENATE SPONSORSHIP

Tochtrop, Harvey, Grantham, Renfro

House Committees
Transportation

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN INCREASE IN THE ACCOUNTABILITY TO THE PUBLIC OF**
102 **THE MEMBERS OF THE PUBLIC UTILITIES COMMISSION, AND, IN**
103 **CONNECTION THEREWITH, REQUIRING THE DIRECTOR OF THE**
104 **COMMISSION TO REPORT ANNUALLY TO THE GENERAL**
105 **ASSEMBLY REGARDING ENERGY RATE CASES AND REPEALING**
106 **THE ABILITY OF THE GOVERNOR'S ENERGY OFFICE TO**
107 **INTERVENE AS A MATTER OF RIGHT IN ADJUDICATORY MATTERS**
108 **AFFECTING ENERGY UTILITIES.**

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

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.

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Currently, members of the public utilities commission (PUC) are appointed to 4-year terms by the governor with the consent of the senate. **Section 1** of the bill reduces the length of PUC terms to 2 years and makes a PUC member who wishes to retain his or her office after the expiration of his or her initial appointment subject to a retention vote by the people of the state, and limits to 2 the total number of terms that a member is permitted to serve. Section 1 also clarifies that the governor may only appoint PUC members if a vacancy exists.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The public utilities commission is vested with such regulatory
5 authority as is conferred by the state constitution and the general
6 assembly;

7 (b) While the public utilities commission has broad authority to
8 regulate public utilities, it must act to protect the public from excessive
9 and burdensome rates and unjust discriminations;

10 (c) The people of Colorado, particularly as energy consumers, are
11 frequently, directly, and substantially affected by the decisions of the
12 public utilities commission;

13 (d) Because the public utilities commission derives much of its
14 power from statute and has a general responsibility to protect the public
15 interest regarding utility rates and practices and because the commission's
16 decisions and activities translate to real and significant impacts to
17 ratepayers, it is important that the general assembly be kept apprised of
18 the commission's activities and decisions; and

19 (e) It is therefore the intent of the general assembly to implement

1 an annual reporting mechanism to increase the commission's transparency
2 and accountability.

3 (2) The general assembly further finds and declares that the
4 mission of the governor's energy office, which includes promotion of
5 renewable energy and advancement of energy efficiency, is not
6 coextensive with, and frequently conflicts with, the interests of the public
7 as consumers and ratepayers. Because there is little benefit to the public
8 by endowing the governor's energy office with the ability to intervene as
9 a matter of right in gas or electric adjudicatory matters pending before the
10 public utilities commission, the general assembly finds it necessary to
11 withdraw from the governor's energy office the ability to do so.

12 **SECTION 2.** 40-2-103, Colorado Revised Statutes, is amended
13 to read:

14 **40-2-103. Director - duties - report.** (1) The executive director
15 of the department of regulatory agencies, pursuant to section 13 of article
16 XII of the state constitution, and with the approval of the commission,
17 shall appoint a director of the commission. The director of the agency
18 shall manage the operations of the agency COMMISSION in order to carry
19 out the public utilities law, to carry out and implement policies,
20 procedures, and decisions made by the commission, as defined in section
21 ~~40-2-101(1)~~, and to meet the requirements of the commission concerning
22 any matters within the authority of an agency transferred by a **type 1**
23 transfer, as defined in section 24-1-105, C.R.S., and which
24 REQUIREMENTS are under the jurisdiction of the commission. The director
25 ~~shall have~~ HAS all the powers and responsibilities of the division director
26 for this purpose, including the power to issue all necessary process, writs,
27 warrants, and notices. The director ~~shall have~~ HAS the requisite power to

1 serve warrants and other process in any county or city and county of this
2 state and to delegate such actions to duly authorized employees or agents
3 of the agency as appropriate.

4 (2) (a) BEGINNING WITH THE SECOND REGULAR SESSION OF THE
5 SIXTY-EIGHTH GENERAL ASSEMBLY, THE DIRECTOR OF THE COMMISSION OR
6 THE DIRECTOR'S DESIGNEE SHALL PRESENT AN ANNUAL REPORT TO THE
7 HOUSE AND SENATE TRANSPORTATION COMMITTEES, OR ANY SUCCESSOR
8 COMMITTEES, REGARDING ENERGY RATE CASES DECIDED BY THE
9 COMMISSION DURING THE PREVIOUS TWO YEARS. THE REPORT AND ANY
10 ACCOMPANYING MATERIALS MAY BE PREPARED AND SUBMITTED TO THE
11 COMMITTEES ELECTRONICALLY, AND MUST INCLUDE THE DISPOSITION OF
12 EACH ENERGY UTILITY RATE CASE BY THE COMMISSION; THE AMOUNT OF
13 ANY INCREASE OR DECREASE IN RATES THAT RESULTED FROM EACH
14 ENERGY UTILITY RATE CASE, EXPRESSED AS A PERCENTAGE OF THE TOTAL
15 AMOUNT BILLED TO RATEPAYERS PER MONTH AND PER YEAR; AND THE
16 DOLLAR AMOUNT OF THE AVERAGE INCREASE OR DECREASE IN THE
17 MONTHLY BILL PAID BY EACH ENERGY UTILITY RATEPAYER.

18 (b) THE REPORT REQUIRED UNDER THIS SUBSECTION (2) MUST ALSO
19 INCLUDE ENERGY UTILITY RATE CASES THAT HAVE BEEN PROPOSED OR
20 FILED OR THAT THE COMMISSION REASONABLY ANTICIPATES TO BE FILED
21 IN THE UPCOMING TWO YEARS.

22 **SECTION 3. Repeal.** 40-6-108 (2) (b), Colorado Revised
23 Statutes, is repealed as follows:

24 **40-6-108. Complaints - service - notice of hearing.** (2) (b) Any
25 public utility giving notice of a proposed gas or electric tariff shall serve
26 such notice upon the governor's energy office or its successor agency.
27 The office shall be granted leave to intervene as a matter of right, upon

1 a timely filing of a petition or other pleading in accordance with this
2 section, in adjudicatory matters affecting gas or electric utilities; except
3 that the office shall not be a party to any individual complaint between a
4 utility and an individual.

5 **SECTION 4. Act subject to petition - effective date.** This act
6 shall take effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part shall not take effect
12 unless approved by the people at the general election to be held in
13 November 2012 and shall take effect on the date of the official
14 declaration of the vote thereon by the governor.