

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 12-0364.01 Debbie Haskins x2045

HOUSE BILL 12-1008

HOUSE SPONSORSHIP

Acree,

SENATE SPONSORSHIP

Jahn,

House Committees

Economic and Business Development
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL METHODS FOR PROVIDING INPUT TO**
102 **EXECUTIVE BRANCH AGENCIES ABOUT PROPOSED RULES, AND, IN**
103 **CONNECTION THEREWITH, DIRECTING AGENCIES TO ESTABLISH**
104 **REPRESENTATIVE GROUPS TO EVALUATE AND COMMENT ON**
105 **PROPOSED RULES, REQUIRING AGENCIES TO NOTIFY THE**
106 **GENERAL ASSEMBLY OF ANY RULE-MAKING THAT RESULTS IN**
107 **INCREASES IN FEES OR FINES, AND REQUIRING AGENCIES TO**
108 **SUBMIT DEPARTMENTAL REGULATORY AGENDAS TO THE**
109 **GENERAL ASSEMBLY.**

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

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.*

SENATE
3rd Reading Unam ended
March 12, 2012

SENATE
Am ended 2nd Reading
March 9, 2012

HOUSE
3rd Reading Unam ended
February 9, 2012

HOUSE
2nd Reading Unam ended
February 8, 2012

passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

An executive branch agency of state government considering adopting rules shall establish a representative group of participants with an interest in the subject of the rule-making to submit views or otherwise participate in conferences or to participate in the rule-making hearing on the proposals under consideration. If the agency convenes a representative group prior to issuing a notice of proposed rule-making, the agency shall include the group participants in the notice of the actual rule-making hearing.

If an agency proposes a rule to increase fees or fines, at the time of giving notice of proposed rule-making under the State Administrative Procedure Act or within 10 days following the adoption of an emergency or temporary rule that increases fees or fines, the agency shall send a written or electronic notification to each member of the general assembly notifying the members about the proposed rule or about the adoption of an emergency rule and specifying the amount of the increase in the fees or fines.

Principal departments of state government shall submit a departmental regulatory agenda each November 1 to the legislative council staff for distribution to the applicable oversight committee of reference of the general assembly. The departmental regulatory agenda shall include:

- ! A list of new rules or revisions to existing rules that the department expects to propose during the next calendar year;
- ! The statutory or other basis for adoption of the proposed rules;
- ! The purpose of the proposed rules;
- ! The contemplated schedule for adoption of the rules;
- ! An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- ! An update and brief summary of all permanent and temporary rules actually adopted since the previous departmental regulatory agenda was filed.

Each principal department shall present its departmental regulatory agenda to the applicable oversight committee of reference of the general assembly during the departmental presentations on strategic plans and performance-based budgeting held during the first 15 days of the legislative session.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-4-102, **add** (14.5)

1 as follows:

2 **24-4-102. Definitions.** As used in this article, unless the context
3 otherwise requires:

4 (14.5) "REPRESENTATIVE GROUP" MEANS A DIVERSE GROUP
5 CONVENED BY AN AGENCY PRIOR TO RULE-MAKING OR INVITED TO
6 PARTICIPATE IN THE RULE-MAKING HEARING TO GIVE INPUT AND TO
7 COMMENT ON THE EFFECT OF THE PROPOSED RULES. THE GROUP SHOULD
8 REPRESENT DIFFERENT POINTS OF VIEW AND MAY INCLUDE
9 REPRESENTATIVES OF PERSONS, BUSINESSES, ADVOCACY GROUPS, TRADE
10 ASSOCIATIONS, LABOR ORGANIZATIONS, ENVIRONMENTAL ADVOCACY
11 GROUPS, CONSUMER ADVOCATES, OR THE REGULATED INDUSTRY OR
12 PROFESSION AFFECTED NEGATIVELY OR POSITIVELY BY PROPOSED RULES.

13 **SECTION 2.** In Colorado Revised Statutes, 24-4-103, **amend** (2)
14 and (3) as follows:

15 **24-4-103. Rule-making - procedure - repeal.** (2) When
16 rule-making is contemplated, public announcement thereof may be made
17 at such time and in such manner as the agency determines. ~~and~~
18 ~~opportunity may be afforded interested persons~~ THE AGENCY SHALL
19 ESTABLISH A REPRESENTATIVE GROUP OF PARTICIPANTS WITH AN INTEREST
20 IN THE SUBJECT OF THE RULE-MAKING to submit views or otherwise
21 participate informally in conferences on the proposals under consideration
22 OR TO PARTICIPATE IN THE PUBLIC RULE-MAKING PROCEEDINGS ON THE
23 PROPOSED RULES. IN ESTABLISHING THE REPRESENTATIVE GROUP, THE
24 AGENCY SHALL MAKE DILIGENT ATTEMPTS TO SOLICIT INPUT FROM
25 REPRESENTATIVES OF EACH OF THE VARIOUS STAKEHOLDER INTERESTS
26 THAT MAY BE AFFECTED POSITIVELY OR NEGATIVELY BY THE PROPOSED
27 RULES. IF THE AGENCY CONVENES A REPRESENTATIVE GROUP PRIOR TO

1 ISSUING A NOTICE OF PROPOSED RULE-MAKING AS PROVIDED IN
2 PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, THE AGENCY SHALL
3 ADD THOSE PERSONS WHO PARTICIPATED IN THE REPRESENTATIVE GROUP
4 TO THE LIST OF PERSONS WHO RECEIVE NOTIFICATION OF PROPOSED
5 RULE-MAKING AS PROVIDED IN PARAGRAPH (b) OF SUBSECTION (3) OF THIS
6 SECTION.

7 (3) (a) Notice of proposed rule-making shall be published as
8 provided in subsection (11) of this section and shall state the time, place,
9 and nature of public rule-making proceedings that shall not be held less
10 than twenty days after such publication, the authority under which the rule
11 is proposed, and either the terms or the substance of the proposed rule or
12 a description of the subjects and issues involved.

13 (a.5) IF THE AGENCY PROPOSES A RULE TO INCREASE FEES OR
14 FINES, AT THE TIME OF GIVING NOTICE OF PROPOSED RULE-MAKING OR
15 WITHIN TEN DAYS FOLLOWING THE ADOPTION OF AN EMERGENCY OR
16 TEMPORARY RULE THAT INCREASES FEES OR FINES, THE AGENCY SHALL
17 SEND A WRITTEN OR ELECTRONIC NOTIFICATION TO EACH MEMBER OF THE
18 GENERAL ASSEMBLY NOTIFYING THE MEMBERS OF THE GENERAL
19 ASSEMBLY OF THE PROPOSED RULE OR THE ADOPTION OF AN EMERGENCY
20 RULE AND SPECIFYING THE AMOUNT OF THE INCREASE IN THE FEES OR
21 FINES.

22 (b) Each rule-making agency shall maintain a list of all persons
23 who request notification of proposed rule-making, including temporary
24 or emergency rule-making. Any person on such list who requests a copy
25 of the proposed rules shall submit to the agency a fee that shall be set by
26 such agency based upon the agency's actual cost of copying and mailing
27 the proposed rules to such person. All fees collected by the agency are

1 hereby appropriated to the agency solely for the purpose of defraying such
2 cost. On or before the date of the publication of notice of proposed
3 rule-making in the Colorado register, the agency shall mail the notice of
4 proposed rule-making to all persons on such list. If a person requests to
5 be notified by electronic mail, notice is sufficient by such means if a copy
6 of the proposed rules is attached or included in the electronic mail or if
7 the electronic mail provides the location where the proposed rules may be
8 viewed on the internet. No fees shall be charged for notification by
9 electronic mail. A person may only request notification on his or her own
10 behalf, and a request for notification by one person on behalf of another
11 person need not be honored.

12 **SECTION 3.** In Colorado Revised Statutes, 2-7-202, **amend** (2);
13 and **add** (2.3) as follows:

14 **2-7-202. Definitions.** As used in this part 2, unless the context
15 otherwise requires:

16 (2) "Department" means the judicial department, the office of
17 state public defender, the office of alternate defense counsel, the office
18 of the child's representative, the independent ethics commission, and the
19 principal departments of the executive branch of state government as
20 specified in section 24-1-110, C.R.S., including any division, office,
21 agency, or other unit created within a principal department; EXCEPT THAT,
22 FOR PURPOSES OF THE REQUIREMENTS OF SECTION 2-7-203 (2) (a) (IV),
23 "DEPARTMENT" MEANS THE PRINCIPAL DEPARTMENTS OF THE EXECUTIVE
24 BRANCH OF STATE GOVERNMENT AS SPECIFIED IN SECTION 24-1-110,
25 C.R.S., INCLUDING ANY DIVISION, OFFICE, AGENCY, OR OTHER UNIT
26 CREATED WITHIN A PRINCIPAL DEPARTMENT.

27 (2.3) "DEPARTMENTAL REGULATORY AGENDA" MEANS A

1 DOCUMENT PREPARED BY EACH PRINCIPAL DEPARTMENT OF THE
2 EXECUTIVE BRANCH OF STATE GOVERNMENT AND SUBMITTED TO THE
3 GENERAL ASSEMBLY AND MADE AVAILABLE TO THE PUBLIC AS DESCRIBED
4 IN SECTION 2-7-203 (2) (a) (IV). THE "DEPARTMENTAL REGULATORY
5 AGENDA" CONTAINS THE FOLLOWING INFORMATION:

6 (a) A LIST OF NEW RULES OR REVISIONS TO EXISTING RULES THAT
7 THE DEPARTMENT EXPECTS TO PROPOSE IN THE NEXT CALENDAR YEAR;

8 (b) THE STATUTORY OR OTHER BASIS FOR ADOPTION OF THE
9 PROPOSED RULES;

10 (c) THE PURPOSE OF THE PROPOSED RULES;

11 (d) THE CONTEMPLATED SCHEDULE FOR ADOPTION OF THE RULES;

12 (e) AN IDENTIFICATION AND LISTING OF PERSONS OR PARTIES THAT
13 MAY BE AFFECTED POSITIVELY OR NEGATIVELY BY THE RULES; AND

14 (f) COMMENCING WITH REGULATORY AGENDAS SUBMITTED ON
15 AND AFTER NOVEMBER 1, 2013, A LIST AND BRIEF SUMMARY OF ALL
16 PERMANENT AND TEMPORARY RULES ACTUALLY ADOPTED SINCE THE
17 PREVIOUS DEPARTMENTAL REGULATORY AGENDA WAS FILED.

18 **SECTION 4.** In Colorado Revised Statutes, 2-7-203, **add** (2) (a)
19 (IV) as follows:

20 **2-7-203. Departmental presentations to legislative committees**
21 **of reference - departmental regulatory agendas.** (2) (a) (IV) ON
22 NOVEMBER 1, 2012, AND EACH NOVEMBER 1 THEREAFTER, EACH
23 DEPARTMENT SHALL FILE A DEPARTMENTAL REGULATORY AGENDA WITH
24 THE STAFF OF THE LEGISLATIVE COUNCIL, WHO SHALL DISTRIBUTE THE
25 DEPARTMENTAL REGULATORY AGENDA TO THE APPLICABLE COMMITTEE
26 OF REFERENCE PRIOR TO THE DEPARTMENTAL PRESENTATIONS TO THE
27 COMMITTEE OF REFERENCE. ON NOVEMBER 1, 2012, AND EACH

1 NOVEMBER 1 THEREAFTER, EACH DEPARTMENT SHALL ALSO POST ITS
2 DEPARTMENTAL REGULATORY AGENDA ON THE DEPARTMENT'S WEB SITE
3 AND SHALL SUBMIT ITS DEPARTMENTAL REGULATORY AGENDA TO THE
4 SECRETARY OF STATE FOR PUBLICATION IN THE COLORADO REGISTER.
5 COMMENCING WITH THE FIRST REGULAR SESSION OF THE SIXTY-NINTH
6 GENERAL ASSEMBLY AND DURING EACH REGULAR SESSION THEREAFTER,
7 DURING THE HEARING AND DEPARTMENTAL PRESENTATION DESCRIBED IN
8 SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (a)
9 FOR THAT AGENCY, THE AGENCY SHALL ALSO PRESENT ITS DEPARTMENTAL
10 REGULATORY AGENDA.

11 **SECTION 5.** In Colorado Revised Statutes, 24-4-103, **amend**
12 **(11) (a) as follows:**

13 **24-4-103. Rule-making - procedure - repeal.** (11) (a) There is
14 hereby established the code of Colorado regulations for the publication
15 of rules of agencies of the executive branch and the Colorado register for
16 the publication of notices of rule-making, proposed rules, attorney
17 general's opinions relating to such rules, and adopted rules. The code and
18 the register shall be the sole official publications for such rules, notices
19 of rule-making, proposed rules, and attorney general's opinions. The code
20 and the register shall contain, where applicable, references to court
21 opinions and recommendations of the legal services committee of the
22 general assembly that relate to or affect such rules and references to any
23 action of the general assembly relating to the extension, expiration,
24 deletion, or rescission of such rules and may contain other items that, in
25 the opinion of the editor, are relevant to such rules. The register may also
26 include other public notices, INCLUDING ANNUAL DEPARTMENTAL
27 REGULATORY AGENDAS SUBMITTED BY PRINCIPAL DEPARTMENTS TO THE

1 SECRETARY OF STATE PURSUANT TO SECTION 2-7-203, C.R.S.; however,
2 except as specifically permitted by law, the inclusion of such notices in
3 the register shall be in addition to and not in substitution for existing
4 public notice requirements.

5 **SECTION 6. No appropriation.** The general assembly has
6 determined that this act can be implemented within existing
7 appropriations, and therefore no separate appropriation of state moneys
8 is necessary to carry out the purposes of this act.

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