

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

INTRODUCED

LLS NO. 13-0241.02 Chuck Brackney x2295

HOUSE BILL 13-1218

HOUSE SPONSORSHIP

Swalm, Wright, Scott

SENATE SPONSORSHIP

Tochtrop,

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE TRANSFER OF CERTAIN EXISTING EMPLOYEES FROM**
102 **THE COLORADO PUBLIC UTILITIES COMMISSION TO THE OFFICE**
103 **OF CONSUMER COUNSEL.**

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

The bill transfers the trial advocacy staff of the public utilities commission to the office of consumer counsel.

The bill defines the term "consumer" for purposes of the office of

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.

consumer counsel as a public utility customer and repeals the definitions of "agricultural consumer", "residential consumer", and "small business consumer". The office of consumer counsel is directed to represent the interests of all consumers by appearing in proceedings before the public utilities commission.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-2-104, **add** (4) as
3 follows:

4 **40-2-104. Assistants and employees.** (4) (a) EFFECTIVE JULY 1,
5 2013, THE TRIAL ADVOCACY STAFF OF THE COMMISSION AS DESCRIBED IN
6 THE RULES OF THE COMMISSION IS TRANSFERRED TO THE OFFICE OF
7 CONSUMER COUNSEL CREATED IN SECTION 40-6.5-102. EMPLOYEES OF THE
8 COMMISSION WITH PRINCIPAL DUTIES AND FUNCTIONS CONCERNING THE
9 DUTIES AND FUNCTIONS OF THE TRIAL ADVOCACY STAFF ARE INCLUDED IN
10 THIS TRANSFER.

11 (b) ANY EMPLOYEES TRANSFERRED TO THE OFFICE OF CONSUMER
12 COUNSEL UNDER PARAGRAPH (a) OF THIS SUBSECTION (4) WHO ARE
13 CLASSIFIED EMPLOYEES IN THE STATE PERSONNEL SYSTEM RETAIN ALL
14 RIGHTS TO THE PERSONNEL SYSTEM AND RETIREMENT BENEFITS UNDER
15 THE LAWS OF THIS STATE, AND THEIR SERVICES ARE CONSIDERED TO BE
16 CONTINUOUS. ALL TRANSFERS MUST BE MADE AND PROCESSED IN
17 ACCORDANCE WITH THE STATE PERSONNEL SYSTEM LAWS AND RULES.

18 **SECTION 2.** In Colorado Revised Statutes, 40-6.5-101, **repeal**
19 (1), (4), and (5); and **add** (1.5) as follows:

20 **40-6.5-101. Definitions.** As used in this article, unless the context
21 otherwise requires:

22 (1) ~~"Agricultural consumer" means a public utility customer~~
23 ~~whose utility service is classified as an agricultural user or an irrigation~~

1 user pursuant to a utility tariff established by the commission or a public
2 utility customer who is seeking such tariff status.

3 (1.5) "CONSUMER" MEANS A PUBLIC UTILITY CUSTOMER.

4 (4) "Residential consumer" means a public utility customer whose
5 utility service is limited to his residence.

6 (5) "Small business consumer" means a public utility customer
7 whose utility service is classified as a small business user or a small
8 commercial user pursuant to a utility tariff established by the commission
9 or a public utility customer who is seeking such tariff status.

10 **SECTION 3.** In Colorado Revised Statutes, 40-6.5-102, **amend**
11 (3) (b), (3) (c) introductory portion, and (3) (c) (II) as follows:

12 **40-6.5-102. Office of consumer counsel - creation -**
13 **appointment - attorney general to represent.** (3) (b) The board ~~shall~~
14 ~~consist~~ CONSISTS of eleven members appointed by the governor. ~~Such~~
15 Members shall be appointed to represent ~~residential, small business, and~~
16 ~~agricultural utility~~ consumers. ~~Such~~ Members shall, to the extent possible,
17 be persons with expertise or experience in consumer-related utility
18 matters, utilities management, economics, accounting, financing,
19 engineering, planning, or utilities law. In making appointments to the
20 board, the governor shall ensure that the membership of the board
21 represents the different geographic areas of the state. Of the members of
22 the board appointed for terms beginning July 1, 1993, five ~~of such~~
23 members shall be appointed for terms of two years and six shall be
24 appointed for terms of four years. Thereafter, members of the board shall
25 be appointed for terms of four years. The governor shall not appoint any
26 member of the board if ~~such~~ THE person has any conflict of interest with
27 ~~such~~ THE person's duties as a member of the board. The governor may

1 remove any board member for misconduct, incompetence, or neglect of
2 duty. Board members shall serve without compensation, but members
3 who reside outside the counties of Denver, Jefferson, Adams, Arapahoe,
4 Boulder, and Douglas shall be entitled to reimbursement for reasonable
5 actual expenses to attend board meetings in Denver. The board shall meet
6 at least six times per year.

7 (c) It is the duty of the board to represent the public interest of
8 Colorado utility users ~~and, specifically, the interests of residential,~~
9 ~~agricultural, and small business users,~~ by providing general policy
10 guidance and oversight for the office of consumer counsel and the
11 consumer counsel in the performance of their statutory duties and
12 responsibilities as specified in this article. The powers and duties of the
13 board shall include, but not be limited to, the following:

14 (II) Gathering data and information and formulating policy
15 positions to advise the office of consumer counsel in preparing analysis
16 and testimony in legislative hearings on proposed legislation affecting the
17 interests of ~~residential, small business, and agricultural utility users~~
18 CONSUMERS;

19 **SECTION 4.** In Colorado Revised Statutes, 40-6.5-104, **amend**
20 (1) and (3) as follows:

21 **40-6.5-104. Representation by consumer counsel.** (1) The
22 consumer counsel shall represent the public interest ~~and, to the extent~~
23 ~~consistent therewith, the specific interests of residential consumers,~~
24 ~~agricultural consumers, and small business~~ OF consumers by appearing in
25 proceedings before the commission and appeals therefrom in matters
26 which involve proposed changes in a public utility's rates and charges, in
27 matters involving rule-making which have an impact on the charges, the

1 provision of services, or the rates to consumers, and in matters which
2 involve certificates of public convenience and necessity for facilities
3 employed in the provision of utility service, the construction of which
4 would have a material effect on the utility's rates and charges.

5 (3) The consumer counsel shall be served with notices of all
6 proposed gas, electric, and telephone tariffs and ~~he~~ shall be served with
7 copies of all orders of the commission affecting the charges of
8 ~~agricultural consumers, residential consumers, and small business~~
9 ~~consumers.~~

10 **SECTION 5.** In Colorado Revised Statutes, 40-6.5-106, **amend**
11 (1) (a) and (2.5); and **add** (4) as follows:

12 **40-6.5-106. Powers of consumer counsel.** (1) The consumer
13 counsel:

14 (a) May employ ~~such~~ attorneys, engineers, economists,
15 accountants, or other employees as may be necessary to carry out ~~his~~ THE
16 CONSUMER COUNSEL'S duties; ~~and shall employ a maximum of sixteen~~
17 ~~full-time employees or the equivalent thereof;~~

18 (2.5) The consumer counsel may petition for, request, initiate, or
19 seek to intervene in any proceeding before a federal agency which
20 regulates utility rates or service, or federal court when the matter before
21 ~~such~~ THE agency or court will affect a rate, charge, tariff, or term of
22 service for a utility product or service for a ~~residential, small business, or~~
23 ~~agricultural utility~~ consumer in the state of Colorado. The phrase "federal
24 agency which regulates utility rates or service" does not include any
25 federal lending agency.

26 (4) (a) EFFECTIVE JULY 1, 2013, THE TRIAL ADVOCACY STAFF OF
27 THE COMMISSION AS DESCRIBED IN THE RULES OF THE COMMISSION IS

1 TRANSFERRED TO THE OFFICE OF CONSUMER COUNSEL. THE CONSUMER
2 COUNSEL SHALL SUPERVISE AND ASSIGN DUTIES TO THE TRIAL ADVOCACY
3 STAFF FORMERLY UNDER THE SUPERVISION OF THE DIRECTOR OF THE
4 COMMISSION. THE CONSUMER COUNSEL SHALL DETERMINE WHETHER THE
5 STAFF WILL INTERVENE IN ANY DOCKETED PROCEEDING BEFORE THE
6 COMMISSION OR A STATE OR FEDERAL COURT.

7 (b) ANY EMPLOYEES TRANSFERRED TO THE OFFICE OF CONSUMER
8 COUNSEL UNDER PARAGRAPH (a) OF THIS SUBSECTION (4) WHO ARE
9 CLASSIFIED EMPLOYEES IN THE STATE PERSONNEL SYSTEM RETAIN ALL
10 RIGHTS TO THE PERSONNEL SYSTEM AND RETIREMENT BENEFITS UNDER
11 THE LAWS OF THIS STATE, AND THEIR SERVICES ARE CONSIDERED TO BE
12 CONTINUOUS. ALL TRANSFERS MUST BE MADE AND PROCESSED IN
13 ACCORDANCE WITH THE STATE PERSONNEL SYSTEM LAWS AND RULES.

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