

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0936.01 Duane Gall x4335

HOUSE BILL 18-1281

HOUSE SPONSORSHIP

Esgar,

SENATE SPONSORSHIP

(None),

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO ENHANCE THE CONSUMER PROTECTION
102 MISSION OF THE COLORADO PUBLIC UTILITIES COMMISSION,
103 AND, IN CONNECTION THEREWITH, PROHIBITING A PERSON WITH
104 RECENT CONNECTIONS TO A REGULATED UTILITY FROM SERVING
105 ON THE COMMISSION AND PROVIDING FOR PERIODIC
106 PERFORMANCE AUDITS.

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://leg.colorado.gov>.)

Section 2 of the bill prohibits a person from serving on the public

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

utilities commission if he or she:

- ! Has, within the immediately preceding 4 years, served as an officer or director of a regulated utility; or
- ! Has or acquires any official relation to, or financial interest in, a regulated utility.

Section 3 encourages the director of the commission to assign employees to temporary training and development sessions with other state agencies, particularly those with which the commission has frequent interaction, to improve the employees' substantive expertise and familiarity with the operations of those agencies. Section 3 also requires the director to keep written and audio records of the commission's proceedings and make them publicly available online.

In addition, section 3 expressly authorizes the executive director of the department of regulatory agencies (of which the commission is a part) to request that the state auditor conduct performance audits of the commission and its staff and operations.

Section 4 directs the commission to adopt rules concerning conflicts of interest, incompatible activities, and ex parte communications.

Section 1 makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-1-102, **amend** the
3 introductory portion; and **add** (6.5) as follows:

4 **40-1-102. Definitions.** As used in articles 1 to 7 of this ~~title~~ TITLE
5 40, unless the context otherwise requires:

6 (6.5) "DIRECTOR" MEANS THE DIRECTOR OF THE COMMISSION.

7 **SECTION 2.** In Colorado Revised Statutes, 40-2-101, **amend** (2)
8 as follows:

9 **40-2-101. Creation - appointment - term - subject to**
10 **termination - repeal of article.** (2) (a) No more than two members of
11 the public utilities commission shall be affiliated with the same political
12 party, and any appointment to fill a vacancy shall be for the unexpired
13 term. Each commissioner shall be a qualified elector of this state. The
14 governor shall designate one member of the commission as chair of the

1 commission. The commissioners shall devote their entire time to the
2 duties of their office to the exclusion of any other employment and shall
3 receive such compensation as is designated by law. A majority of the
4 commission shall constitute a quorum for the transaction of its business.

5 (b) EFFECTIVE JULY 1, 2018:

6 (I) TO BE ELIGIBLE FOR APPOINTMENT AS A COMMISSIONER, A
7 PERSON MUST NOT HAVE SERVED, WITHIN THE IMMEDIATELY PRECEDING
8 FOUR YEARS, AS AN OFFICER OR DIRECTOR OF AN ENTITY SUBJECT TO
9 REGULATION BY THE COMMISSION; AND

10 (II) (A) A MEMBER OF THE COMMISSION SHALL NOT ACQUIRE OR
11 HOLD ANY OFFICIAL RELATION TO, NOR HAVE A FINANCIAL INTEREST IN, AN
12 ENTITY SUBJECT TO REGULATION BY THE COMMISSION. IF A COMMISSIONER
13 ACQUIRES OR HOLDS A FINANCIAL INTEREST IN AN ENTITY SUBJECT TO
14 REGULATION BY THE COMMISSION, HIS OR HER OFFICE BECOMES VACANT
15 UNLESS WITHIN A REASONABLE TIME HE OR SHE DIVESTS HIMSELF OR
16 HERSELF OF THE INTEREST.

17 (B) AS USED IN THIS SECTION, "FINANCIAL INTEREST" DOES NOT
18 INCLUDE PASSIVE OWNERSHIP OF STOCKS, BONDS, OR OTHER INTERESTS AS
19 PART OF A MUTUAL FUND OR SIMILAR INVESTMENT VEHICLE.

20 **SECTION 3.** In Colorado Revised Statutes, 40-2-104, **amend** (1)
21 and (3) as follows:

22 **40-2-104. Assistants and employees.** (1) (a) The director ~~of the~~
23 ~~commission~~ may appoint such experts, engineers, statisticians,
24 accountants, investigative personnel, clerks, and other employees as are
25 necessary to carry out ~~the provisions of this title~~ TITLE 40 or to perform
26 the duties and exercise the powers conferred by law upon the
27 commission.

1 (b) THE DIRECTOR MAY AUTHORIZE COMMISSION EMPLOYEES TO
2 UNDERTAKE TEMPORARY TRAINING AND DEVELOPMENT ASSIGNMENTS
3 WITH OTHER AGENCIES, DEPARTMENTS, AND COMMISSIONS. THESE
4 ASSIGNMENTS SHOULD BE SELECTED TO ENHANCE THE EMPLOYEES'
5 SUBSTANTIVE EXPERTISE RELATED TO, AND FAMILIARITY WITH THE
6 OPERATIONS OF, AGENCIES THAT UNDERTAKE COORDINATED ACTIVITIES
7 WITH THE COMMISSION, SUCH AS THE COLORADO ENERGY OFFICE, THE AIR
8 QUALITY CONTROL COMMISSION, THE DEPARTMENT OF PUBLIC HEALTH
9 AND ENVIRONMENT, AND THE COLORADO WATER CONSERVATION BOARD.
10 IN ADDITION, THE DIRECTOR MAY COLLABORATE WITH COLORADO
11 INSTITUTIONS OF HIGHER EDUCATION TO DEVELOP CURRICULUM AND
12 TRAINING NECESSARY OR USEFUL TO CANDIDATES FOR EMPLOYMENT WITH
13 THE COMMISSION.

14 (3) (a) The director ~~of the commission~~ shall hire and designate
15 employees of the commission as administrative law judges who shall have
16 the power to administer oaths, examine witnesses, receive evidence, and
17 conduct hearings, investigations, and other proceedings on behalf of the
18 commission.

19 (b) THE DIRECTOR SHALL MAKE AND MAINTAIN AUDIO
20 RECORDINGS OF ALL PROCEEDINGS OF THE COMMISSION, INCLUDING THOSE
21 REQUIRED BY SECTION 40-2-106, AND SHALL POST AUDIO RECORDINGS
22 AND ANY OTHER OFFICIAL RECORDS OF THOSE PROCEEDINGS ONLINE FOR
23 ACCESS BY THE PUBLIC.

24 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
25 REGULATORY AGENCIES MAY PERIODICALLY REQUEST THAT THE STATE
26 AUDITOR CONDUCT A PERFORMANCE AUDIT OF THE COMMISSION AND ITS
27 STAFF AND OPERATIONS.

1 **SECTION 4.** In Colorado Revised Statutes, 40-6-123, **amend** (1)
2 and (3) as follows:

3 **40-6-123. Standards of conduct.** (1) (a) Members and staff of
4 the commission shall conduct themselves in such a manner as to ensure
5 fairness in the discharge of the duties of the commission, to provide
6 equitable treatment of the public, utilities, and other parties, to maintain
7 public confidence in the integrity of the commission's actions, and to
8 prevent the appearance of impropriety or of conflict of interest. The
9 standards set forth in this section AND IN RULES ADOPTED BY THE
10 COMMISSION UNDER SUBSECTION (1)(b) OF THIS SECTION apply at all times
11 to the commissioners, to their staff, including administrative law judges,
12 and to parties under contract with the commission for state business.

13 (b) THE COMMISSION SHALL ADOPT RULES SETTING FORTH:

14 (I) THE COMMISSION'S POLICIES CONCERNING CONFLICTS OF
15 INTEREST;

16 (II) A STATEMENT OF INCOMPATIBLE ACTIVITIES; AND

17 (III) LIMITATIONS ON EX PARTE COMMUNICATIONS.

18 (3) Neither commissioners, staff members, parties under contract
19 for state work, or members of the immediate families of such persons
20 shall request or accept any gift, bequest, or loan from persons who appear
21 before the commission; except that commissioners and staff members
22 may participate in meetings, conferences, or educational programs ~~which~~
23 THAT are open to other persons SO LONG AS ALL SUCH MEETINGS,
24 CONFERENCES, OR PROGRAMS ARE CONSISTENT WITH THE COMMISSION'S
25 CURRENT RULES AND POLICIES ADOPTED IN ACCORDANCE WITH
26 SUBSECTION (1)(b) OF THIS SECTION.

27 **SECTION 5. Effective date.** This act takes effect July 1, 2018.

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.