

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 18-0936.01 Duane Gall x4335

HOUSE BILL 18-1281

HOUSE SPONSORSHIP

Esgar,

SENATE SPONSORSHIP

Garcia,

House Committees

Transportation & Energy
Finance

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.

HOUSE
3rd Reading Unamended
April 19, 2018

HOUSE
Amended 2nd Reading
April 17, 2018

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 [REDACTED]
6 (b) (I) EFFECTIVE JULY 1, 2018, A MEMBER OF THE COMMISSION
7 SHALL NOT ACQUIRE OR HOLD ANY OFFICIAL RELATION TO, NOR HAVE A
8 FINANCIAL INTEREST IN, AN ENTITY SUBJECT TO REGULATION BY THE
9 COMMISSION. IF A COMMISSIONER ACQUIRES OR HOLDS A FINANCIAL
10 INTEREST IN AN ENTITY SUBJECT TO REGULATION BY THE COMMISSION, HIS
11 OR HER OFFICE BECOMES VACANT UNLESS WITHIN A REASONABLE TIME HE
12 OR SHE DIVESTS HIMSELF OR HERSELF OF THE INTEREST.

13 (II) AS USED IN THIS SUBSECTION (2)(b), "FINANCIAL INTEREST"
14 DOES NOT INCLUDE PASSIVE OWNERSHIP OF STOCKS, BONDS, OR OTHER
15 INTERESTS AS PART OF A MUTUAL FUND OR SIMILAR INVESTMENT VEHICLE.

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

18 **40-2-104. Assistants and employees.** (1) (a) The director ~~of the~~
19 ~~commission~~ may appoint such experts, engineers, statisticians,
20 accountants, investigative personnel, clerks, and other employees as are
21 necessary to carry out ~~the provisions of this title~~ TITLE 40 or to perform
22 the duties and exercise the powers conferred by law upon the
23 commission.

24 (b) THE DIRECTOR MAY AUTHORIZE COMMISSION EMPLOYEES TO
25 UNDERTAKE TEMPORARY TRAINING AND DEVELOPMENT ASSIGNMENTS
26 WITH OTHER AGENCIES, DEPARTMENTS, AND COMMISSIONS. THESE
27 ASSIGNMENTS SHOULD BE SELECTED TO ENHANCE THE EMPLOYEES'

1 SUBSTANTIVE EXPERTISE RELATED TO, AND FAMILIARITY WITH THE
2 OPERATIONS OF, AGENCIES THAT UNDERTAKE COORDINATED ACTIVITIES
3 WITH THE COMMISSION, SUCH AS THE COLORADO ENERGY OFFICE, THE AIR
4 QUALITY CONTROL COMMISSION, THE DEPARTMENT OF PUBLIC HEALTH
5 AND ENVIRONMENT, AND THE COLORADO WATER CONSERVATION BOARD.
6 IN ADDITION, THE DIRECTOR MAY COLLABORATE WITH COLORADO
7 INSTITUTIONS OF HIGHER EDUCATION TO DEVELOP CURRICULUM AND
8 TRAINING NECESSARY OR USEFUL TO CANDIDATES FOR EMPLOYMENT WITH
9 THE COMMISSION.

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

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

20 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
21 REGULATORY AGENCIES MAY PERIODICALLY REQUEST THAT THE STATE
22 AUDITOR CONDUCT A PERFORMANCE AUDIT OF THE COMMISSION AND ITS
23 STAFF AND OPERATIONS.

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

26 **40-6-123. Standards of conduct.** (1) (a) Members and staff of
27 the commission shall conduct themselves in such a manner as to ensure

1 fairness in the discharge of the duties of the commission, to provide
2 equitable treatment of the public, utilities, and other parties, to maintain
3 public confidence in the integrity of the commission's actions, and to
4 prevent the appearance of impropriety or of conflict of interest. The
5 standards set forth in this section AND IN RULES ADOPTED BY THE
6 COMMISSION UNDER SUBSECTION (1)(b) OF THIS SECTION apply at all times
7 to the commissioners, to their staff, including administrative law judges,
8 and to parties under contract with the commission for state business.

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

10 (I) THE COMMISSION'S POLICIES CONCERNING RECUSAL OF
11 COMMISSIONERS, ADOPTING A STANDARD OF RECUSAL UNDER WHICH A
12 COMMISSIONER WHO WAS FORMALLY EMPLOYED AS AN OFFICER OR
13 DIRECTOR OF AN ENTITY SUBJECT TO REGULATION BY THE COMMISSION
14 SHOULD RECUSE HIMSELF OR HERSELF FROM A PROCEEDING IF A PERSON
15 WHO IS AWARE OF THE FACTS OF THE PROCEEDING MIGHT REASONABLY
16 QUESTION WHETHER THE COMMISSIONER IS ABLE TO ACT IMPARTIALLY;

17 (II) THE COMMISSION'S POLICIES CONCERNING CONFLICTS OF
18 INTEREST;

19 (III) A STATEMENT OF ACTIVITIES AND RELATIONSHIPS THAT THE
20 COMMISSION DEEMS INCOMPATIBLE WITH ITS POLICIES CONCERNING
21 CONFLICTS OF INTEREST; AND

22 (IV) LIMITATIONS ON EX PARTE COMMUNICATIONS.

23 (3) Neither commissioners, staff members, parties under contract
24 for state work, or members of the immediate families of such persons
25 shall request or accept any gift, bequest, or loan from persons who appear
26 before the commission; except that commissioners and staff members
27 may participate in meetings, conferences, or educational programs which

1 THAT are open to other persons SO LONG AS ALL SUCH MEETINGS,
2 CONFERENCES, OR PROGRAMS ARE CONSISTENT WITH THE COMMISSION'S
3 CURRENT RULES AND POLICIES ADOPTED IN ACCORDANCE WITH
4 SUBSECTION (1)(b) OF THIS SECTION.

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

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